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Woodruff,W.(Deft)

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Whitehead J. (Rebuttal)

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" removed from office of private Secy.to J.Smith,p.96,Q.55.

D. Blair,W.W.(Direct)

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Carter,John H.(Direct)

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Eaton,Mary,(Direct)

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Hall,W.R.(Direct)

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Kelly,E.L.(Direct)

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Kelly,E.L.(Deft)

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Kingsberry,J.(Deft)

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Littlefield,L.O. (Deft)

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Woodruff W.(Deft)

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Griffith,W.(Rebuttal)

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E. Blair,W.W.(Direct)

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" " " on representations rules,p.329,Q.1181 to 1197
" " conference minutes of 1891,p.335,Q.1231 to 1233.
" " " " " " on incorperating,p.339,Q. 1277; p.344,Q.1318.
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Witness E.C.(Direct)

Extract from exhibit on W.Smith from word of comsolation,p.473,Q348
" " tract the re.org.church in succession,p.474,Q.862.
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" " " " on linneage,p.486,Q.1032 to 1036.
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" " " " on release from building Temple,p.496,Q.1166.
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" " rules of order,on representation,p.490,Q.1091 to 1095 p.491,Q.1101 to 1107; p.492,Q.1111 to 1115;p 493,Q1121
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Eaton Mary,(Direct)

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Extracts from exhibits.

Extract from D & C on Temple Lot,p.610.
" " exhibit "W" on name of church,p.615 to 617.
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Rathburn Hiram.(Direct)

Extract from D & C on name of church,p.514,Q.128; p.515,Q.143.
" " " " 1835 Ed.on name of church,p.540,Q.479 to 480.
" " " " on armies of Isreal D & C p.547,Q.578.

Smith,Joseph,(Direct)

Exhibits,epitome of faith,p.53,Q.69 to 72.

Kellogg. #1 statement

1. 3 000, took part in the exposure of 1853.
2. Money paid in 1832 &
3. Endorsed and a member of the Church.
4. Johnson knew & had claim W. Jackson & Supp.
5. No claim stated: There was dissension until 1844.
6. Reorganized the Utah Church.
7. Knew revelations are recorded.
8. W. Smith. cul off. for Polygamy.
9. J. Smith did not teach or practice Polygamy.
10. Polygamy revelation could not be called 2 pages of foolscap & would take by hand & copy in typewriting.
11. Endorsed & owns as member of Reorg Church.
12. Abstract. not correct.

Church. Succession not the 1st point.
Utah Church. Not Organized.
Defendants do not claim that the Utah Church is the successor of the 1830 Church but of the Reorganized Church
Reorg C not the Successor
Defendant Church admitted when organized 1860
Partridge how he brought the property. Duff Cundey. Ord.
Cundey has Deed.
Title vested By inheritance.
Property Worked. in 1852.
Daniels. conveys to Church of Christ organized in 1830
Can Not Authorize to State. what he knows
How many went to Utah 1/10 admitted.
Ores appointed by revelation + approved by Lucius
Who has decided the Utah Church adopted false Doctrine —
Law for Adopting revelation. in 1835. D + C
Same why Def does not state what they believe

E.

Smith Joseph.(Direct)

Extracts from D & C.on presidency and law.p.60,Q.104; p.61,Q.109.
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" " " " and B of M on marriage.p.57,Q.98; p.59,Q.102.
" " " " on Pres.p.122,Q.1008 to 1013.
" " " " on rec.J.Smith's rev.p.136,Q.1190 to 1197.
" " " " on ord.apostles,p.140,Q.1242.
" " " " on name of church.p.145 Q.1319.
" " " " on law to try pres.of church.p.147,Q.1441to'45
" " " " Re.Org.Ed.on Add.to.p.107,Q.861 to 867.
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" " " " on polygamy.p.65,Q.148 to 154.
" " " " on qual. of Seer.p.124 Q.1031.
" " Church record on res.,p.88,Q.529.
" " " " on young Joseph,s ord.p.121,Q.990 to993
" " Herald on name of church.p.94,Q.635; p.133,Q.1152-85
" " Art.incorporation.p.118,Q.939

Smith.W.B.(Direct)

" " D & C on calling of 12,p.189,Q.405; p.213,Q.652 to656
" " " " on rev.not to be given to the world.p.203,Q.570
" " " " 1835 Ed.on name of church.p.217,Q.703 to 705.
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" " " on cutting off Briggs.p.196,Q.513 to 519.
Endowments at Nauvoo,p.192,Q.451 to 455; p.205,Q.578 to 582.
" " Kirtland.p.2012 Q.642 to 651.

Sebbins.H.A.(Direct)

Extract from conference minutes of 1891,p.347,Q.13 to 16.
" " Re Org.record on Hedrick's claim,p.346,Q.28.

Taylor John (Direct)

" " T & S on H.Smith's letter,p.408,Q.171.

Thomas John H.(Direct)

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" where and when first heard of.p.608,Q.236 to 260.

Whitehead James.(Direct)

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Briggs J.W.(Deft)

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" " T & S on heads of Joseph's posterity,p.600,Q.322.
" " " " on church and state.p.601,Q.326 to 328.
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Hall W.R.(Deft)

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Hill R.(Deft)

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" " " " Hedrick an Elder,p.746,Q.128.

Hickey L.D.(Deft)

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Hickey L.D.(Deft)

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Kimball Lucy,(Deft)

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Littlefield L.O.(Deft)

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Richards,S.W.(Deft)

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Smith B.(Deft)

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Thompson,M.R.(Deft)

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West,Mary A.(Deft)
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Wheeler,C.H.(Deft)
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" " " " " rev.of 1838 on name of church,p.5,Q.39.
" " " " " on marriage law,p.15,Q.120; p.91,Q.1050.
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" " his statement about young Joseph,p.596,Q.43.
" " was Pres.of conference at Nauvoo,p.602,Q.133.
" " was well acquainted with him,p.604,Q.170.
" " his statement about his books being worthless,p.607, Q.229 to 235.

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Snow Lorenzo,(Deft)
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Woodruff,W.(Deft)
Young,Brigham,Pres.by rev.,through J.Smith,p.78,Q.876; p.81,Q.932.

Griffith W.(Rebuttal)
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List of Abreviations.

B of M,- Book of Morman
D & C.,- for Doctrin and Covenants.
Gen.,- for General.
Ills.,- for Illinois.
Mell.Star,-for Melleniel Star.
Pres.,- for President.
Sec'y,- for Secretary
Rev.- for Revelation.
Co.,- for County.
Ed.,- for Edition.
Ind.,- for Independence.
L.D.S.,- for Latter Day Saint
Mo.,- for Missouri.
Re Org.,- for Re Organized
T & S,- for Times and Seasons
Young Joseph for Joseph Smith,President of Re Organized Church.
3 books,for Bible,Book of Morman and Doctrin and Covenants.
12 for quorum of twelve apostles.

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Plaintiff,witness fees.

Briggs,E.C.,p.502,	$19.00	Gregg Jacob,p.687,	$ 3.00
Hall Martha,p.663,	1.50	Johnson,Dr.C.p.422,	24.50
Rathburn Hiram,p.548,	4.50	Ross Chas.p.629,	11.50
Taylor,John,p.412,	7.80	Thomas John,p.609,	4.50
Weston,Robert,p.593,	1.00	Young,E.D.,p.373,	1.25
Griffith,W.Reb.93,	19.50	Hawley John,Rebt.93,	21.00

Defendant witness fees and costs.

Mason,E.,p.694,	$ 1.60	Henley,H.G.,p.700,	$ 1.25
Maxwell,T.,p.716	1.00	Hall,W.R.,p.717,	1.00
Wilson,W.R.,p.803	1.00	Taylor,J.H.,p.806,	1.00
Hickey,L.D.,p.684,	41.00	Kimball,L.,p.495,	6.50
Kingsberry,J.,p.326,	1.50	Littlefield,L.O.,p.177,	8.00
Noble,J.B.,p.448,	2.50	Richards,S.W.,p.577,	1.50
Smith,B.,p.348,	1.50	Snow,L.,p.147.	7.50
Staines,P.,p.330,	1.50	Thompson,M.R.,p.271,	1.50
Willitts,M.,p.108,	4.70	West,M.A.,p.522,	5.50
Wheelock,C.H.,p.563,	13.00	Woodruff,W.,p.92,	1.50
Young,E.D.,p.392,	1.50	Room rent,p.577,	8.00

Ms d 1160 Box 1 fd 2

I

The Re-organized Church of Jesus
Christ of Latter Day Saints,
Complainants,

Vs

The Church of Christ of Independence,
Missouri,.C.A. Hall.,C.A. Hall,President
and others,
Defendants,.

Depositions of witnesses taken in the above entitled cause,pursuant to the annexed notice,at the office of John N. Southern in the City of Independence,in the County of Jackson,and state of Missouri,commencing on the 25th day of January,and continued from time to time thereafter,as is here-in-after specifically set forth.

Appearences,- P.P. Kelley and L. Traber appeared for the Complainant,
John N. Southern appeared for the Respondents,

Now on this 25th day of January 1892,the same being Monday, come the parties hereto,by their attorneys,as here-in-before set forth,and agree that the taking of the depositions under the annexed notice shall and may be continued until to-morrow the same being Tuesday the 26th day of January 1892,at the hour of half past nine o'clock in the forenoon.

Now on this 26th day of January 1892, the same being Tuesday,and being the day to which the taking of the depositions herein was continued on yesterday,come the parties hereto,as aforesaid,and the taking of the depositions herein was commenced, pursuant to adjournment,-

By Mr Southern,-"Before the introduction of any evidence in this case,I wish to state,that the defendants object to any and all evidence that may be offered for the reason that the pleadings do not state a cause of action as prayed for in the bill against these defendants".

By Mr Kelley,-"Plaintiff offers in evidence the article of its incorporation in the state of Iowa,dated the sixth day of June,1891,and asks that the same be marked Exhibit A".

The articles of incorporation above offered,are hereupon marked Exhibit A,J.M.Orr",by the Notary Public,and a copy of the same is attached hereto,marked as above described.

By Mr Southern,-"Well that is objected to because it is not authenticated according to law, It is objected to because it does not show any authority on the part of the plaintiff in this cause to maintain any action for or concerning real estate situated in the state of Missouri.

By Mr Kelley,-"The plaintiff offers in evidence the original articles of incorporation in the state of Iowa,dated the sixth day of June 1891,and in lieu of leaving the same with the Notary Public who is now taking this testimony in this case,they leave a certified copy thereof."

The ~~original copy of the Articles~~ certified copy of the original Articles of Incorporation above referred to,are marked "Exhibit B.,J.M. Orr",a copy of which,marked as stated is attached hereto,and made a part of these depositions.

By Mr Southern,-"These are objected to for the same reasons as are given against accepting the copy in evidence."

By Mr Kelley,-"Do you object because it is not identified as the original,or copy of the original"?

By Mr Southern,-"I object to it for the same reasons,-"

By Mr Kelley,-"All right. Then I will have Mr E.L. Kelley sworn."

E.L. Kelley of lawful age,being produced,sworn and examined on the part of the Complainant herein,testified as follows,- to wit,-

Direct examination By Mr P.P. Kelley,-

1 Q-Please state your name to the reporter? A-My name is E.L.Kelley

2 Q-Where do you live Mr Kelley? A-At present at Lamoni,Iowa.

3. Q-What is your business? A-I am a Minister in the Church.

4 Q-What official position do you hold in the church at the present time Mr Kelley? A-Presiding Bishop in the Church.

5 Q-In what church? A-The re-organized Church of Jesus Christ of Latter Day Saints.

6 Q-The plaintiff in this suit? A-Yes sir.

7 Q-Were you one of the Incorporators of the plaintiff in this cause in Iowa in the year I89I?

By Mr Southern,-"I object to the question because it calls for testimony,and indicates that there is better testimony than that called for else where,-the Incorporation itself is the best testimony.

That is my objection".

A-I was.

8 Q-Look at that paper Mr Kelley,marked"exhibit B"and state what it is? A-It is the original of the Articles of Incorporation of the Church of Jesus Christ of Latter Day Saints,before named.

By Mr Southern,-"Well I object to that question and the answer of the witness,-both are objected to,-because there is better testimony of the fact sought to be proven,-or the fact called for".

By Mr P.P. Kelley,-"Plaintiff now re-offer the original Articles of Incorporation of the plaintiff in this suit,in Iowa,dated the 6th day of June I89I,and in lieu of leaving the original with the Notary Public taking this testimony,leave a certified ~~cate~~ copy there of as a part of the testimony of the witness E.L. Kelley".

By Mr Southern,- "That is objected to because the alleged articles of Incorporation are not authenticated according to law,and because they do not purport to confer any authority on the plaintiff in this cause to sue for the recovery of real estate in the State of Missouri,or any interest what-so-ever therein". "Now if you have no objection I will cross examine this witness".

9 Q-Mr Kelley do you state that you are the Bishop of the plaintiff in this action? A-I do.

I0 Q-And the plaintiff or complaintant in this action is a corporation? A-Yes sir.

II Q-Now Mr Kelley will you please explain how any one can be a bishop of a Corporation?

By Mr P.P. Kelley.-That is objected to as immeterial,and not cross examination."

A-Shall I answer the question if he insists upon it?

By Mr P.P. Kelley,-

I2 Q-Yes sir, you have got to answer it?

By Mr Southern,-

I3 Q-I would like to have an answer to that question? A-Well sir you may be a Bishop of a society,-or rather of an incorporation by a society,which provides for the office of a Bishop incorporating under the statue of a state providing for such officer as trustee.

I4 Q-Then I understand you to distinctly,-or ~~rig~~ am I right when I say I understand you ~~distinctly~~ to state distinctly that you are a Bishop of the plaintiff corporation? A-I am the Bishop of the Church,-the Church known as the Re-organized Church of Jesus Christ of Latter Day Saints.which

ing to the laws of the state of Iowa.

I5 Q-In your bill in this cause it is stated that the Re-organized Church contains,-I should say the Re-orgainzed church of Latter Day Saints,-contains about seven hundred(700)at,and about the City of Independence,Missouri. Now will you state whether that membership,-or rather what part of that membership took part in the incorporation that you speak of in the State of Iowa?

By Mr P.P. Kelley,-"We object to that question, That is immeterial and incompetent,and not the best evidence,"And it is not cross examination."

A-It is recited in the Articles of Incorporation themselves what part the church at Independence took with references to this in connection with the other churches of the body,by resolution of all the churches made in its general Conference The Independence Church being duly represented there.

By Mr P.P. Kelley,-"The plaintiff moves to strike the testimony from the record for the reason that it is.not cross examination".

By Mr Southern,-

I6 Q-What conference do you refer to?

By Mr Kelley,-"The plaintiff objects to the question for the reason that it is immeterial and incompetent,and not cross examination".

A-The annual general conference of the Church.

By Mr Southern,-

I7 Q-For what year? A-The one that was held April 6th I89I.

I8 Q-At what place? A-Kirtland,Ohio.

I9 Q-Is it in pursuance of the authority of that Conference that this incorporation was effected? A-The church may be incorporated by vote of large branches in any state,and this Conference recognized the right of any branch to so incorporate, and the branch at Lamoni,Iowa,incorporated by virtue of this recognized right in the church,but expressed in the resolutions of that Conference.

20 Q-Did that Conference authorize this incorporation? A-It provided that such an incorporation might take place,and also authorized any church of a like nature,andespecially authorized the incorporation at Lamoni.

21 Q-Do you recognize the pamphlet which.I now hand you? A-Yes sir.

22 Q-What is it? A-It purports to be a supplement to the Saints Herald.

22 Q-Is it an authorized publication? A-The Saints Herald is.

23 Q-Of the church,-is it an authorized publication of the Re-organized church? A-The Herald is,-but not the pamphlet.

24 Q-Was not this all the authority,- was not the following the only resolution passed at the Conference mentioned on the subject of the property at Independence,Missouri, to wit,-"Resolved, Bishopric be authorized to take such steps to remove the cloud on the title of the real estate in Independence,Missouri.,as may be deemed wise and proper for them"?

By Mr Kelley,-"That is objected as immeterial and incompetent,and not cross-examination,and has no reference about the matters concerning which the witness was interrogated in chief."

By Mr Southern,-

25 Q-You understand the question? A-Yes sir.

26 Q-Well,was that not all the action that was taken? A-I could not state from memory without reference to the record,but I remember that a resolution similiar to that was passed, but whether

there was any other or not I could not state,without I could see the records and examinem them. I could not state from my own memory Colonel,that is it.

27 Q-Will you just state how this alleged corporation in Iowa was originated,and constituted?

By Mr Kelley,-"That we object to on the part of the plaintiff as immeterial,and not the best evidence,and improper cr-ss-examination.

By Mr Southern,-

28 Q-Just state how it was originated and constituted?

By Mr Kelley,-"All the testimony asked from this witness appears in the shape of records and documents of the plaintiffs in this case and part of the Church records,and that is the best evidence".

A-The Association at Lamoni,Iowa,adopted articles as set forth in the originals to which I have testified,and were signed by the parties whose names appear in the articles,and were duly acknowledged,and they are ~~thirty~~ filed,-in the Recorders office of the County of Decatur,Iowa, as provided for under the statue of the state of Iowa. Now there might have been m other things done with reference to it,but that is as near as I remember.

By Mr Southern-

29 Q-What do you mean by Association? A-The Church.

30 Q-What do you mean by"Church",-by the Church? A-The church located at Lamoni,Iowa.,as is fully set forth in the Articles of Incorporation.

31 Q-Was that done in pursuance of a resolution,or by other proper proceedings of that church at Lamoni,Iowa? A-It was done in harmony with such resolutions,and at the instance of the church at Lamoni,Iowa.

32 Q-Did all the ~~xxxxxx~~ members of the church at Lamoni,participate in this incorporation? A-Not by signing,but by vote they did ,-not by signature,-but by vote.

33 Q-How many of the members at Lamoni participated in signing and executing the Articles of Incorporation?

By Mr, Kelley,-"That is objected to as immeterial and not cross examination".

A-If I know just the membership there,I would be able to state it,but I can't do so as I do not know just what the membership is there.

By Mr Southern,-

34 Q-Well, that is all I want? A-Well there is betwemn seven hundred and fifty and eight hundred(750 & 800)according to my best recollection.

35 Q-Well, about how many participated in ~~the~~ signing the articles of incorporation? A-I couldn't state,because I have not counted the names. The Articles of Incorporation state that fact for themselves,and I fancy they would be the best evidence.

36 Q-The Articles of Incorporation state that fact,you say? A-Yes sir

37 Q-This church at Lamoni,is one of the churches,-is one of the local ~~xxxxxxxx~~ churches or branches I believe you stated,-I believe that is what you would term it,of the Re-organized Church of Jesus Christ of Latter Day Saints,which you claim to number about twenty five thousand(25,000)? A-The church at Lamoni effected the Articles of Incorporation,because that is the central church,and all others are simply branches of that church. That is the way we understand it Colonel. It is the headquarters,-it is the incorporated body,-it is made the headquarters and principle place

of business.

38 Q-By what authority was it so made the principle place of business
By Mr Kelley,-"That is objected to as immeterial,and not cross examination."
A-By the authority of the common consent of the body,which is a rule of action of the body.
By Mr Southern,-

39 Q-Now,what body do you refer to? Do you refer to the local church at Lamoni,or not? A-I refer to the incorporated church at Lamoni,and all the branches of that church,in its representative capacity.

40 Q-Is that Church at Lamoni,Iowa.,the older church of the organization? A-No sir,not so far as the time of organization is concerned.

41 Q-Then how do you know,-are there older local churches than that in the denominations at other places,and in other states? A-There are branches of the church that have older organization than the present head quarters of the Church,-so far as time is concerned.

42 Q-How do you designate that which is older as a branch,from that which is younger? A-By virtue of the rules of the body governing the church.

43 Q-Will you state where those rules may be found? A-They may be found in the recognized books of the Church,-in the actions of the general conferences of the body,-

44 Q-Now then Mr Kelley,will you explain,how it is that one local church may incorporate itself,and thereby exercise jurisdiction or authority over the property within the jurisdiction of other churches in other states?
By Mr Kelley,-"I object to that question for the reason that it is incompetent and immeterial,and not cross examination,and calls for the opinion of the witness on a question of law, when the testimony of the witness already given shows that he is a minister and not a lawyer,therefore his opinion is not worth anything on an opinion of law."
By Mr Southern,-"Well I think he is a lawyer,-and a pretty good one at that."

45 Q-Do you understand the question? A-Please repeat the question.

46 Q-How asked you to explain how one local church may incorporate itself,and thereby exercise authority over property within the jurisdiction of other churches in other states?
A-Under the laws of the state of Iowa,provision is made,for the incorporation of local societies,and providing in such corporation supervision in the manner of a presbytery,synod or general convention of churches,of all other churches,and so the incorporation of this church is made,We hold property in other states by virtue of the law of comity existing between the states.

47 Q-Now Mr Kelley you state that you were the Bishop of the Re-organized Church of Jesus Christ of Latter Day Saints? A-Yes sir.

48 Q-And you are at the present time? A-Yes sir.

49 Q-How many Bishops are there? A-There is but one at the present time,-that is there is but one at the present time that is acting in the office of Bishop,-But the Bishop has counselors to assist him.

Q-You may state whether or not the Bishop of that Church is the highest officer in it? A-No sir.
By Mr Kelley,-"That question is objected because it is not cross-

examination,and not the best evidence."
By Mr ~~Kelley~~ Southern,-

50 Q-You are not the highest officer,-or rather the Bishop is not the highest officer? A-No sir.

51 Q-Who is the highest officer? A-The highest officer in the church is,the,-

By Mr Kelley,-"That is also objected to,-that question is objected to for the reasons given in the last objection,and it is immeterial."

A-The highest officer in the church is the President,or presiding elder in the Church.

By Mr Southern.-

52 Q-Now you spoke about the incorporation of the local church at Lamoni,and you stated if I recollect correctly your testimony ,-that it was authorized by the general Conference? If I recollect correctly that is what you ~~xxix~~ testified to?
A-Yes sir.

53 Q-Now did the general Conference authorize an incorporation of the church or branch at Lamoni,Iowa.,in contra-distinction between the incorporation of any other ~~xxxxxx~~branch or church of the denomination?

By Mr Kelley,-"That is immeterial and not the best evidence,-the best evidence being now in the possession of the attorney asking the question. The question is objected to for that reason."

A-The resolution is general,and any branch of the church in any state,where such corporations are permitted under the laws of the state might act in harmony with the resolution and incorporate;but my recollection is that there was a special resolution with reference to the incorporation of the church at Lamoni in the state of Iowa. Now that is my best recollection of the facts in connection with that matter.

54 Q-Will you state why an incorporation of the church was not made at Independence,Missouri.,instead of the church at Lamoni, Iowa?

By Mr Kelley,-"That is objected to as immeterial,and incompetent, and calling for the opinion of the witness only".

By Mr Southern,-

55 Q-I ask you if you know,-if you can state why it was not had at Independence,Missouri.,rather than at Lamoni,Iowa? A-Yes sir I know. It was because we preferred to incorporate under the laws of the state of Iowa.

56 Q-You allege,or it is alleged in the Bill in this ~~xxxx~~ cause,that the Re-organized Church of Latter Day Saints,was,-I believe it is at a blank date,-incorporated in the State of Illinois? Now is that true?

By Mr Kelley,-"That is objected to as immeterial,and not proper cross-examination."

A-I could not state from my personally knowledge Colonel in reference to that. I only know that I did not take part in the original corporation.

By Mr Southern,-

57 Q-Well then is it incorporated at any other place to your knowledge only at Lamoni and at this point in Illinois? A-The incorporation at the present time is at Lamoni.

58 Q-And it is not incorporated at,-or rather in Illinois? A-The Lamoni incorporation is a re-incorporation of the church in Illinois,-the Lamoni incorporation is a re-incorporation of that.

59 Q-Now is there any other incorporation in any other state of which you are aware? A-Not that I am aware of. Could I look at that paper just a moment Colonel(witness refers to Exhibit A)

By Mr Kelley,-"Plaintiff moves to strike from the record all the testimony of this witness given on cross examination,for the reason that it is immeterial,incompetent,and not the best evidence,and not proper cross-examination."

.....

Sworn xxxx to before me on the day within the hours,and at the place in that behalf first aforesaid,and subscribed in my presence,this day of 1892.

.....

Notary Public.

James Whitehead,of lawful age being produced,sworn and examined on the part of the Complainants,testified as follows, to wit,-

Direct examination by Mr P.P. Kelley.-

Q-Please state your name to the reporter? A-My name is James Whitehead.

Q-Mr Whitehead,where do you live? A-Where do I live now?

Q-Yes sir,-where do you live now? A-I live at Lamoni,Iowa.

Q-How long have you lived there? A-I have lived there nearly three(3)years.

Q-Where did you live prior to your coming to Lamoni,Iowa to live? A-Before I came to Lamoni I lived at Alton,Illinois.

Q-How long did you live at Alton? A-I can't hear very well.

Q-How long did you live at Alton? A-About forty(40)years.

Q-What other place did you live in Illinois,if at any place,other than at Alton? A-I lived at Nauvoo Illinois.

Q-When xx did you live at Nauvoo,Illinois? A-I lived in the City of Nauvoo.

Q-When did you live there in the City of Nauvoo? A-I landed there on the 13th day of April '42.

Q-How long did you live there? A-I lived there until the fall of '47.

Q-What was your business in Nauvoo from 1842 to 1847? A-I was engaged in the church business,-church work.

Q-What business were you engaged in? A-I was,when Joseph was living,I was in his office as his secretary,and after that I kept on with the church work.

Q-You mean that you were the Secretary of Joseph Smith? A-Yes sir.

Q-How long were you his secretary? A-From early in June '42,and I was there when he was killed.

Q-Then from '42 to '44.-the time that he was killed,-you were his Secretary,? A-Yes sir. I was there then at the time he was killed.

Q-Did you know the officers in the old church? A-Yes sir.

Q-How long had you been a member of the old church before you went to Nauvoo,if you were a member? A-I was a member of the church when I went there. I was baptized on the 18th day of October 1837. I lived in England at Preston Lancashire at the time I was baptized.

Q-Who baptized you? A-I was baptized by Heber C. Kimball.

20 Q-Were you from 1842 to 1844 acquainted with the general church doctrines of the old church? A-Yes sir.
21 Q-You were familiar with the doctrine and tenets of the old church from 1842 to 1844? A-Yes sir.
22 Q-Are you familiar with the doctrine and tenets of the Re-organized Church of Jesus Christ of Latter Day Saints,-the plaintiffs in this case? A-Am I acquainted with the doctrine?
23 Q-Yes sir,-the doctrine and tenets of the re-organized Church of Jesus Christ of Latter Day Saints? A-Yes sir.
24 Q-What,if any,difference is there,between the doctrine of the old church from 1830 to 1844,from the doctrine of the plaintiffs in this case?
By Mr Southern,-"That is objected to,because there is better evidence of the doctrine of these churches,than the oral testimony of a witness."
By Mr Kelley,-
25 Q-You may state the question,-I mean you may answer the question now,and state the difference,if there is any between the doctrine of the old church,and the doctrine of the re-organized Church? A-The doctrine taught in the old church in the days of Joseph Smith the prophet and seer,and the doctrine taught in the re-organized church now,-is that what you want?
26 Q-Yes sir? A-It is the same.
27 Q-Are the books of doctrine of ~~the~~ old church,the same books that are used by the Re-organized church? A-Yes sir.
28 Q-They are the same books that are used by the re-organized church ,-the plaintiffs in this case? A-Yes sir,the books used in the old church,and in the re-organized church are the same. You mean the standard books?
29 Q-Yes sir. A-They are the same.
30 Q-Will you tell the reporter what these books are,-that the standard books in the re-organized church,and also in the old church tell the reporter what they are? A-The books are called the bible and the testament,-the Book of Mormon,and the revelation of God to his people in this day,and the book of covenants. These are the three books that are standard.
31 Q-Those were the standard books of the old church were they not? A-They were in Joseph's Day.
32 Q-Are they the same books,-the standard books of the new church,-the plaintiff in this case uses? A-They are recognized as standard both by the old church and the re-organized church.
33 Q-Now what official position outside of the Secretary ship did you hold in the old original church? A-What office did I hold?
34 Q-Yes sir. A-I was an high priest.
35 Q-For how long? A-From '41 until now. At the first general conference in Manchester,England,held by the twelve,there was sixteen called to be High priests,and they were ordained at that conference,and I was one of them.
36 Q-Do you hold the same office now in the re-organized church that you did in the old church? A-I do.
37 Q-And that is the office an high priest? A-Yes sir,I was and am an high priest. I was ordained in Manchester England.
38 Q-Will you state to the reporter the duties of an high priest? A-The what?
39 Q-I asked you to state to the reporter what the duties are of an high priest? A-What the duties are?
40 Q-Yes sir? A-The duties are to preach the gospel as it is written according to the divine words of our Divine Master Jesus Christ

and the prophets and the apostles,to preside at meetings and to give instruction according to the standard of the faith, but ~~mmxk~~ they must be in harmony with the word of God.

41 Q-Do you recollect a meeting that was held in Nauvoo Illinois, some time ~~kimm~~ priork to Joseph' Smiths death,at which there was a selection made,or ~~of~~ an appointment made of a cuccessor to him? A-I do.

42 Q-When was that meeting held? A-It was held in Nauvoo.

43 Q-When was it held,-what year? A-It was held in the winter of '43

44 Q-That was the meeting at which a sucessor to Joseph Smith was selected? A-Yes sir,that was the time,and it was some time in the winter of '43 that it was held.

45 Q-Who,if any body,was selected as sucessor? A-Who was selected?

46 Q-Yes sir? A-His son Joseph was.

47 Q-Who made the selection? A-Why the Lord made it through his prophet.

48 Q-Who did the talking I mean? A-What is that?

49 Q-Who did the talking at that time,to those that were present? A-There was Joseph and Hyrum and John Taylor and some others there,that spoke on the subject. There was twenty five(25) I suppose at that meeting.

50 Q-What,if anything,was done after that with reference to an ordination? A-He was ordained and annointed at that meeting. Hyrum Smith,the Patriarch annointed him,and Joseph his father blessed him and ordained him,and Newell K.Whitne y held the horn and poured the oil on his head,and he was ordained to be his fathers sucessor in the office,holding all the blessings and powers that his father held.

51 Q-Who were present at the time of this ordination? A-Oh,I can't say who all were present,-there was a good many there.

52 Q-Well name as many as you can remember that were present at this ordination? A-WellJohn Taylor was present,and Williard Richards was present,they were two of the twelve,-Ebenezer Robinson was present,George J. Adams was present,Alpheus Cutler was present,Reynolds Cahoon was present,and I can't tell them all any how,-but I was there too.

53 Q-These are the ones that you recollect were present at the time of that selection and ordination? A-Yes sir,and I was there too.

54 Q-Do you know Mr Whitehead what the doctrine of the old church was from the time it was established in 1830 down to 1844,with reference to marriage? A-A man could have one wife.

55 Q-Well just answer the question yes or ~~no~~? no, and then you can ~~xx~~ state what it was? A-Well I know something about it.

56 Q-Was that doctrine of the church monogamy or polygamy? A-Polygamy was never taught by Joseph Smith,nor was it ever practiced in the time of Joseph to my knowledge. Joseph never taught it at all.

57 Q-Was polygamy a doctrine of the original church,and taught by the elders and high priests,or by any other person or persons of authority in that church,so far as you know from ~~xxx~~ 1830 to 1844? A-No sir.

58 Q-Has the doctrine of polygamy to your knowledge been taught or practiced by any person in the Re-organized Church of Jesus Christ of'Latter Day Saints,since the re-organization? A-In this present organization?

59 Q-Yes sir? A-No sir.
60 Q-It was not,and has not been? A-No sir,for we did not believe in it, Not to my knowledge there has not been anything of the kind taught in this church,for if they did that they would be cut off mighty quick.
6I Q-Do any of the books of doctrine of the re-organized church teach,or countenance the practice of polygamy?
By Mr Southern,-"That is objected to by the defendant because the books are the best ~~authority~~ *evidence*."
By Mr Kelley,-
62 Q-You may answer the question,if you understand it? A-No sir,they do not,
63 Q-Do,or did any of the books of the original church established in I830,teach or endorse the practice of polygamy?
By Mr Southern,-"That question is also objected to for the same reasons."
A-Not while Joseph lived.They did not while Joseph lived.
By Mr Kelley,-"Plaintiff now offers in evidence a bible of King James translation,and ask that it be marked an exhibit".
(The bible above offered marked "Exhibit C,J.M.Orr",and made a part of these depositions).
Plaintiff also offers in evidence the new and revised translation of the Holy Scriptures,entitled and being the Holy Scriptures,which is marked "Exhibit B,J.M. Orr." *Plaintiff now offers for the purpose of identification the 1830 edition of the Book of Mormon the same being the first edition, which is marked "Exhibit D.D. J.M.Orr"*
64 Q-I will ask you Mr Whitehead if this book marked "Exhibit D.D." being the original Book of Mormon,is one of the books of doctrine of the old church,and also a book of doctrine of the new re-organized church? A-The book of Mormon is. It was acknowledged and accepted both in the old church and the re-organized church.
65 Q-Look at Exhibit D.and state to the reporter whether or not that is one of the books of the doctrine of the old church,and also of the re-organized church? A-This book of Mormon?
66 Q-Yes sir? A-In what way?
67 Q-Just look at it,and state whether or not that is one of the books of doctrine that was accepted as a doctrinal book in ~~the~~ the old church? A-Yes sir.

68 Q-And is it also accepted and acknowledged as a book of doctrine in the re-organized church? A-It is,-the book of Mormon is acknowledged and accepted both in the old church and the re-organized church of Latter Day Saints.
69 Q-Was this same book of Mormon marked Exhibit D.D.,that I now have in my hand,or one like it,used by the old church? A-Yes sir. The same doctrine is there as was used in the days of Joseph.
70 Q-It was used by the old church,and is now used by the re-organized church as a book of doctrine,is it not? A-Yes sir.
"I will now offer for the purpose of identification the book of doctrine and covenants,Kirtland,Ohio.,edition of I835".
The book above referred to as being offered for the purpose of identification is marked "Exhibit E,J.M.Orr".
7I Q-Look at this book Mr Whitehead,marked Exhibit E,and state whether or not that is one of the books of the old church? A-Yes sir.
72 Q-That is one of the books of the old church? A-Yes sir,this book was endorsed by the old church.
73 Q-Is it a book that was endorsed by the first organization of

the church? A-It is.

74 Q-An by the ~~organizaxkionx~~ re-organization,the plaintiff in this case? A-Yes sir it was recognized as a book of the old church and ~~it~~ is so recognized by the re-organization of the Church of Jesus Christ of Latter Day Saints.

"Plaintiff now offers for the purpose of identification,the I874 edition of the Book of Mormon,published at Lamoni,Iowa.,"

The book above referred to as the I874 edition of the book of Mormon,published at Lamoni,Iowa.,is marked "Exhibit F.J.M.Orr"

75 Q-Look at this book which I now hand you Mr Whitehead,and which is marked Exhibit F.,and state to the reporter what that is? A-I endorse that.

76 Q-What book is that?A-That is the Book of Mormon,and it is correct according to the doctrine of the Church of Jesus Chrisr,and it was recognized by the first church,and also by the re-organized church of Jesus Christ.

"Plaintiff offers for the purpose of identification the I845 edition of the book of Doctrine and Covenants".

The book of Doctrine and Covenants,above referred to,and marked"Exhibit G.J.M.Orr."

Plaintiff offers in evidence for the purpose of identification the I846 edition of the Book of Doctrine and Covenants".

The book of Doctrine and Covenants above referred to,the same being the I846 edition thereof,is marked "Exhibit H.J.M.Orr".

Plaintiff also for the purpose of identification offers the I852 edition of the book of Doctrine and Covenants".

The book above referred to as the I852 edition of the book of Doctrine and Covenants,which is marked "Exhibit I.J.M.Orr".

Plaintiff offers for the purpose of identification the I880 edition of the book of Doctrine and Covenants".

The book above referred to as the I880 edition of the book of Doctrine and Covenants is marked "Exhibit J.J.M.Orr".

77 Q-I will ask you Mr Whitehead if this book which is marked Exhibit J,is one of the recognized standards of doctrine of the re-organized church of Jesus Christ,the plaintiff in this case? A-Yes sir,it is. I recognize it. That was recognized in the first church,and it was,or is recognized in the re-organized Church of Jesus Christ.

76 Q-Mr Whitehead look at that book,and see if you know,and can state what it is? A-That is the "Times & Seasons".

77 Q-I will ask you whether or not that was an original publication of the original church? A-I acknowledged it up to the time that Joseph and Hyrum were killed as being official.

80 Q-You recognized it as official up to the time of the deaths of Joseph and Hiram Smith? A-Yes sir.

81 Q-I will ask you if that is the position of the re-organized Church? A-It is.

82 Q-So that the publication known as the "Times and Seasons",was the official church publication,-the official church paper,until the time of Joseph's Smith's death in I844? A-Yes sir.

83 Q-And was recognized as such by the church? A-Yes sir.

"I offer this book now for the purpose of identification,and ask that it be marked "Exhibit K(which was accordingly done).

"I offer for the purpose of identification the Times and Seasons",from ~~xxxxxxxxxx~~ November I839,Vol I,No I,to November IIth I842,-being Vols I,2,and 3,and ask that the same be marked"Exhibit L", (which was accordingly done).

84 Q-I will ask you Mr Whitehead,where this paper,the Times and Seasons was published? A-It was published in Nauvoo,I guess most all of the time.

85 Q-It was published you say in Nauvoo? A-Yes sir,most of the time.

86 Q-By whom was it published? A-By the church.

87 Q-By the church of which Joseph Smith was the head? A-By the church that he was the President of.

88 Q-It was published by the authority of the church of which Joseph Smith was the President? A-Yes sir.

89 Q-Joseph Smith that is now dead? A-Yes sir,Joseph the prophet and seer who was killed at Carthage.

90 Q-It was published by the church I have been calling here to-day, the"old church"? A-Yes sir.

91 Q-Do you know by what authority the paper was published? A-How?

92 Q-Do you know by what authority the paper or publication was published,-that is this book was published? A-Joseph Smith. He sanctioned it. He had the over sight of the publishing house.

93 Q-I will ask you whether or not the paper which was called the "Times & Seasons",was recognized by the church as a church paper,and an authority? A-It was.

94 Q-How was it published,-in book form or in pamphlet form? A-It was published in pamphlet form,and then bound up afterwards.

95 Q-I will ask you whether or not John Taylor was not editor at least a part of the time during the publication of the Times and Seasons? A-He was at the time Joseph was killed.

By Mr Southern,-" That is objected to on the ground that the paper itself will show who was the editor,and is the best evidence of that fact".

By Mr Kelley,-

96 Q-I will ask you whether the John Taylor that appears on the face of this book,to be the editor at one time,was the same John Taylor who afterwards went with the Brighamite faction of the church to the Salt Lake Valley? A-He was the same man.

97 Q-He is the John Taylor that went to the Valley with Brigham Young A-The same man,yes sir.

By Mr Southern,-"It is mutually understood and agreed ~~that~~ between the attorneys for the plaintiff and defendants,that the defendant may object,and does hereby object to the introduction of any or all the books,-or any of them, or part of them,-numbered as Exhibits from"C" to "L",because neither the books nor their contents are pertinent to the issues involved in this case,and are immeterial and irrelevant".

By Mr Kelley,-

98 Q-Now Mr Whitehead,I want to ask you this question,-Who was the President of the Church there at Nauvoo. Illinois.,the branch, and also the President of the High Council in 1844? A-Joseph Smith was President of the Church,and Bishop Miller was President of the High Council,-the quorom of High Priests, but the High Counsellor,-he is dead now. He was the President of the stake and High Council,but he was in the re-organized church at first.

99 Q-What position,if any,did William Marks hold in the old church? A-He was the President of the stake,-of the Nauvoo stake.

100 Q-You say William Marks was President of the Nauvoo stake? A-Yes sir.

101 Q-Who was President of the High Council at the time William Marks was President of the Nauvoo stake? A-Why the President

of the stake was President of the Council. The President of the stake was President of the High Council.

I02 Q-What position did William Marks ~~hxxxxxxxxx~~ sustain to the re-organized church after I844? A-To the re-organized church since I844?

I03 Q-Yes sir? A-Why he was counsellor at one time to Joseph as I understand it. I was never much acquainted with him in the re-organized church, for I was not up there at the time; but I knew him in Nauvoo very well.

I04 Q-You were acquainted with him in Nauvoo? A-Yes sir.

I05 Q-Do you know that he was a member of the re-organized church? A-Certainly ~~he was~~. I do.

I06 Q-Well, was he a member of the re-organized church? A-Certainly he was.

I07 Q-You say you were born in England? A-~~Yxxxxxx~~I was.

I08 Q-Now when did you first come to this country from England? A-I landed at Orleans on the first day of April '42, and at Nauvoo on the I3th day of April '42.

I09 Q-When did you first become a member of the church after you came to Nauvoo? A-When did I become a member of the church after I got to Nauvoo?

II0 Q-Yes sir? A-I was a member of the church then. I was a member of the church before I came to this country.

III Q-When did you first become a member of the church in this country and after you came to this country? A-I took a certificate from the church in England certifying that I was a member of the church there, and when I came here I handed it to the President of the ~~church~~ branch, and was recorded as a member of the ~~church~~ branch.

II2 Q-What branch? A-The Nauvoo branch.

II3 Q-Who was the President of the branch? A-I forget the man's name, for I don't remember all the names, it was so long ago that happened. I was recorded as a member of the branch at Nauvoo on my certificate, and I can produce a hundred,-yes five hundred,-that knew I was there, and was a member of that branch.

II4 Q-I asked you who was the President of the branch? A-I don't remember what his name was. I don't recollect who it was.

II5 Q-How many members were there there in the branch at that time? A-Well they kept coming so quick before Joseph was killed,-at that time there was about twenty five thousand(25,000)Latter Day Saints in Nauvoo.

II6 Q-There was about twenty thousand(20,000)Latter Day Saints there at Nauvoo at that time? A-Yes sir, at the time that Joseph was murdered there was about twenty or twenty five thousand(20,000,or 25,000)saints there. There was about that many there at the time Joseph and Hiram were murdered.

II7 Q-About when was that,-at what time was that? A-That was in '44."

II8 Q-About how many were there at the first time you went there,-when did you say you first went there? A- To Nauvoo?

II9 Q-Yes sir? A-That was on the I3th day of April '42 that I landed there at Nauvoo.

I20 Q-Well, about how many of the church were there at Nauvoo at the time you first arrived there? A-Well that is a hard question for me to answer.

I2I Q-Well tell us about how many were there approgimately? A-Well probably(I0,000), but I would not say ~~xxxxxxxxxxxx~~ difinitely how many there were there then, but I think about ten thousand (I0,000)

I22 Q-Did they increase very rapidly the first year or two after you went there? A-Well they increased considerable. There is no use in you asking me these questions for I can't tell you just how many ~~xxxx xxxx~~ were there,and I am not going to tell you anything only what I know. I am going to ~~xxik~~ yxxxx only tell you what I know to be the truth.

I23 Q-Well I am sure that is all I want. Now you say they increased considerably the first year or two after you arrived at Nauvoo? Is that your answer. A-Yes sir,they increased pretty rapidly.

I24 Q-And so at the time of the death of Joseph Smith they numbered about twenty thousand(20,000)? A-Yes sir,some where about that.

I25 Q-And at the time you went there there were about ten thousand (I0,000) there? A-I did not say that. I said I did not know how many were there at the time I arrived there,-I said I thought there was about ten thousand (I0,000) there.

I26 Q-Was there any of that denomination at pther points at that time? A-Was there what?

I27 Q-Was there any branches of that denomination at other points at that time? A-Not in Nauvoo that I know of.

I28 Q-Where was there any others? A-What? Branches of the Saints?

I29 Q-Yes sir?A-They were all around there. There was some at Nauvoo, there was some at Carthage,and some at Fort Madison,-they were all around there.

I30 Q-About how many adherents had the church at the time Joseph Smith was killed? A-What,-every where?

I31 Q-Yes sir? A-About two hundred and fifty thousand(250,000). Now I want it distinstly understood that I do not say they were all in America,but belonging to the Church in America,in England,some in Scotland,and some in Wales and some in Ireland,-there was about two hundred and fifty thousand(250,000) altogether.

I32 Q-About what proportion of them were in America? A-Well there was most in England,-

I33 Q-More in England than in this country? A-No sir,not altogether in this country,-but there were more in England than there x were in Nauvoo. There was about ten thousand emigrated from England to this country,and there was about twenty five thousand(25,000)there altogether when Joseph and Hiram were killed.

I34 Q-At the time of Joseph's death there was about twenty five thousand left in England? A-Yes sir.

I35 Q-What I want to get at is about how many there were in the church in America at that time? A-Well I don't know that.

I36 Q-You have stated there was about two hundred and fifty thousand (250,000)? A-Yes sir,-in all,-every where.,but not in America alone.

I37 Q-Well,about how many of that number were in America would you think? A-I couldn't tell.

I38 Q-Was there half of it? A-Yes sir,more than that.

I39 Q-Was there three fourths of it? A-No sir,I don't think there was three fourths in America.

I40 Q-Well on a rough estimate would you put the number that at the time that Joseph was killed as being in America,-at one hundred and fifty thousand(I50,000)? A-I should think there was,but I am not certain about it.

I41 Q-Now what I mean by "American",is in the united states? A-Yes sir that is what I supposed. There was some in France and other places. They were in a good many places,-in the islands of the Sea.

I42 Q-About how many are there in the re-organized church of Jesus Christ of Latter Day Saints?
By Mr Kelley,-"The plaintiff objects to that question for the reason that it is not cross-examination,and not the best evidence ,and immeterial".
By Mr Southern,-
I43 Q-Answer the question? A-How many is there in the re-organized church?
I44 Q-Yes sir,that is the question I asked you? A-Well I coulcn't say. I could not tell you. I suppose there is over thirty thousand(30,000).That is in this country.
I45 Q-Yes sir,I understand,-? A-And there is some in other places. Now that is my opinion as to the number.For I should think there is about that many,but I don't know the number.
I46 Q-Now you said in your examination in chief,--? A-Sir?
I47 Q-You said in your examination in chief,that you became,or were the Secretary of Joseph Smith? A-Yes sir,I was.
I48 Q-At about what time definitely? A-Did I become his Secretary?
I49 Q-Yes sir? A-Definitely I took the position as his secretary I think it was on the IIth day of June I842. I was in the office before that,but not as his secretary until that time.
I50 Q-What were the duties of the secretary? A-To keep accounts,and keep all the correspondence,and everything of that kind.
I5I Q-That were your duties? A-Yes sir. I used to keep his correspondence and letter books,and everything that belonged to the church,
I52 Q-Did he have a good deal of correspondence and a good many letter books? A-Well not many letter books,but he had a good deal of correspondence.
I53 Q-Did you keep the church records? A-I did not keep the historical accounts.
I54 Q-Was it his business,and did he keep the church records? A-My business?
I55 Q-No sir. Was it Joseph ~~Smith's~~ business? A-Why there was a ~~historian~~ historian kept them.
I56 Q-Who was he? A-Williard Richards when I was there did that.
I57 Q-Where did he live? A-At Nauvoo.
I58 Q-What records did he keep? A-He could have told you exactly where all the members lived,and the number of them,and every thing of that kind.
I59 Q-Where d id he keep the records? A-In Nauvoo,-he had an office there.
I60 Q-Who had the records from the earliest time down to the time when you were at Nauvoo? A-Why James Sloan had a good deal to do with keeping the records.
I6I Q-James Sloan? A-Yes sir.
I62 Q-Where is he? A-Oh,he is dead.
I63 Q-Where did he die at? A-I don't know whether he went to Salt Lake or not. I don't know anything about that.
I64 Q-You say James Sloan is dead? A-Yes sir.
I65 Q-And don't you know whether he went to Salt Lake or not? A-No sir
I66 Q-What did he do with his records? A-I don't know I suppose they all went to Salt Lake City.
I67 Q-You think they were taken there? A-Yes sir I think they were taken there. I know that all the other church records that I had anything to do with were taken there.
I68 Q-They went to Salt Lake City? A-Yes sir.

I69 Q-How do you know that went there? A-I know they did for I helped pack them myself.
I70 Q-You did? A-Yes sir.
I71 Q-How did you come to do that? A-I was ordered by Joseph's administrator to do that,and Joseph Coolidge was his name if you want to know it.
I72 Q-He was the administrator of Joseph Smith? A-Yes sir.
I73 Q-And he ordered you to pack them? A-Yes sir. He gave his commands to the twelve,and they ordered me to pack them.
I74 Q-Into whose hands did you deliver them after you packed them? A-What is that?
I75 Q-Into whose hands did you deliver them,-whom did you give them to after you packed them? A-I delivered them according to the instruction I got.
I76 Q-Who got them? A-Well they went to Salt Lake City. Now I will tell you how I know it. I did not go into winter quarters when they did. I stayed at Nauvoo until I had finished up my business when I went over to where they were.
I77 Q-What winter quarters do you refer to? A-They were in winter quarters in Omaha,and they asked me there to re-pack the records.
I78 Q-Where did you say that they were in winter quarters? A-It was at Omaha,or where Omaha is now,-It was the Indian Territory then
I79 Q-Did you go to Omaha? A-Yes sir.
I80 Q-What did you go there for? A-I went there to make my report when I had finished my business.
I81 Q-Well did did you make your report? A-Yes sir.
I82 Q-To whom did you make your report? A-To the High Council.It was to the High Council,or what claimed to be the High Council,-or twelve.
I83 Q-The twelve? A-Yes sir.
I84 Q-They were at Omaha,or were in winter quarters you said at the place where Omaha now stands? A-Yes sir.
I85 Q-Well where did the twelve go from that point? A-They went from there to Salt Lake Valley I suppose,but I did not go there with them.
I86 Q-You did not go through with them? A-No sir.
I87 Q-But you delivered the records to them where they were in winter quarters? A-Yes sir. I did according to the instructionsof the administrator of Joseph Smith.
I88 Q-What time was that? A-Well there was a great many went in '46 ,but I went,-I stopped there to help finish up the business, and I did not go to Omaha until the fall of '47,and I went there,or got there in December,and stayed there until early in the following April.
I89 Q-Now then do I understand you correctly,when you testify that you were the Secretary of Joseph Smith,-or were appointed his Secretary in I842? A-Yes sir. I was made his Secretary then and I was his secretary until the time he was killed or murdered,
I90 Q-From I842 until the time he was killed you were his secretary, and he was killed in I844? A-Yes sir. He was killed the 27th day of June I844.
I91 Q-And you testify that you had certain records in your possession? A-Yes sir.
I92 Q-You did? A-Yes sir. I did until I gave them to the administrator.
I93 Q-Until you turned them over to Joseph Smith's Administrator you

had them in your possession? A-Yes sir. I turned them over to him,and then he turned them over to the twelve,

I94 Q-And the twelve took them where? A-To Omaha.

I95 Q-And in I847 you went to Omaha and helped re-pack the records? A-Yes sir.

I96 Q-That is what you testify to? A-Yes sir.

I97 Q-And you left them there in the possession of the twelve? A-Yes sir,I did.

I98 Q-Then what did you do? A-Then I returned and went to Alton.

I99 Q-And the twelve took these records as you understand it to Salt Lake City? A-Yes sir. That is what I understand,but I didn't see them take them there,for I was not with them.

200 Q-Can you give me the names of some of the parties who composed the twelve? A-Yes sir.

20I' Q-Well,who were they? A-There was Brigham Young,Heber C.Kimball, Orson Hyde,George A.Smith;William Smith;-but William Smith did not go to Salt Lake City,and he was one of the twelve,-there was Wilfred Woodruf,Parley Pratt,Orson Pratt,Lyman White and Page,I forget his first name.

By Mr E.L. Kelley,-

202 Q-John E.Page? A-Yes sir,-John E.Page. He did not go and William Smith did not go,-neither of them went to the Valley with the rest.

By Mr Southern,-

203 Q-Was John Taylor one of them? A-Yes sir.

304 Q-Well there is one you have not mentioned,-you have mentioned eleven(II)only and there was twelve(I2)? A-Yes sir there was another. I can't think who that was now. Yes I remember it was,Amasa Lyman.

205 Q-That list you have enumerated makes up the twelve? A-Yes sir I believe that is all of them.

206 Q-Now when you returned from Omaha,where did you go? A-To Alton.

207 Q-To Alton Illinois? A-Yes sir.

208 Q-Had you lived at Alton Prior to that time? A-No sir,I had never been there before,but I had friends living there.

209 Q-Did you have a church there? A-What is that?

2I0 Q-Was there a church there belonging to your denomination? A-There was a branch there but I had nothing to do with that.

2II Q-You had nothing to do with that? A-No sir.

2I2 Q-Why did you have nothing to do with that? A-I had left the party altogether. I did not believe in the way they were doing.

2I3 Q-What was the trouble? A-There was so much wickedness and corruption among them that I couldn't stay with them.

2I4 Q-What was it?? A-All kinds of wickedness,-drinking and carousing and whoring and everything else.

2I5 Q-In the church at Alton? A-No sir,-at Omaha.

2I6 Q-That was the reason you went back to Alton? A-Yes sir. That was the reason I left there.

2I7 Q-And came back to Alton? A-Yes sir.

2I8 Q-You were not suited with their practices? A-No sir,for there was all kinds of wickedness and carousing and drinking and whoring ~~and~~ going on,and that was not what Joseph had taught, and so I left them,for I was disgusted with their practices.

2I9 Q-About how many of them were at Omaha at the time you were there? A-I don't know how many were there. I can't say how many were there. There was a great many started for there,but

they got scattered out in every direction.

220 Q-Well about how many were there in winter quarters at Omaha? A-I really could not say.

22I Q-Well was there as many as fifty thousand(50,000)? A-I don't know whether there was or not. I couldn't say without making a guess at it,and I don't like guessing.

222 Q-Well you returned from Omaha to Alton? A-Yes sir.

223 Q-Was there a church at Alton? A-There was a small branch there,-just a few of them,-I don't know just how many,but about twenty I think.

224 Q-Did you become a member of that branch? A-No sir.

225 Q-Why not? A-Because I had left the church.

226 Q-You had left the church entirely? A-Yes sir,entirely,and I did not have anything to do with them.

227 Q-That was in I847? A-Yes sir.

228 Q-That you left the church and returned to Alton? A-No sir,that was in '48. I landed there on the 25th day of May I848.

229 Q-Landed where? A-At Alton,-that is the time I got there.

230 Q-Well you afterwards re-joinrd the church? A-I did.

23I Q-Well,when did you next become a member of the church? A-I re-joined the church,or became a member of the Re-organized Church of Jesus Christ of Latter Day Saints in September I865

232 Q-You remained out of the church then some fifteen or sixteen years? A-Yes sir. Over that I guess.

233 Q-Well about seventeen years? A-Anyhow I became a member again in '65.

234 Q-At what point did you again become a member of the church? A-At Alton. I joined the branch at St Louis,but I lived at Alton. There was no branch at Alton at that time,and that is the reason I joined the branch at St Louis,for there was none at Alton.

235 Q-Are you acquainted with the movements of the re-organized church from the time of its organization,up to the time you joined the church? A-Yes sir I was pretty well acquainted with it, and I will tell you what made me join it,-because I knew that Joseph Smith was the right man to lead the church. I knew that he had been ordained,and was ordained and set apart by his father as successor in the office of the head of the church, and he came out and made that proclamation to the saints in mass,and they received it. Now that is the reason I came back to the church,for I always believed in its teachings and intended to go back to it again when the right time would come,as I knew it would some time.

236 Q-At what time did he do that? A-In I843.

237 Q-Then how is it you did not belong to this church sooner than I865? A-Because he did not take his place until '60. He was but a boy,and when he was ordained he was not to take his place until the Lord called him,and he did not do it until then,so it was in '60 when he took his place in obedience to the call of the Lord.

238 Q-Now then Mr Whitehead I want to be kind to you in this examination? A-Well that is all right.

239 Q-I want to be kind to you in this cross examination,and I want you to consider as I ask you some questions now that I am doing it not to annoy you,-? A-Oh,I don't believe that,-

240 Q-But to properly represent this side of the case,-that is the side I am on,and that is a duty I owe to myself as well as to my clients? A-I know you have a perfect right to do that.

24I Q-Well now that I have made my explaination I want to enquire particularly about that ordination? A-Well sir what do you wish to know about it?

242 Q-At what time did it occur? A-At what time did the ordination of Joseph Smith occur,-is that what you wish to know?
243 Q-Yes sir. A-It occured in the winter of '43.
244 Q-You know what ordination I refer to? A-Yes sir.
245 Q-The ordination of young Jospeh Smith? A-Yes sir.
246 Q-The gentlemen who is now the President of the Re-organized Church of Latter Day Saints? A-Yes sir, I know what you mean,-what do you want to know about it?
247 Q-You say he was ordained at the time,-or in the winter of I843 is that correct? A-Yes sir.
248 Q-About how old was he at the time of that ordaination? A-Well that was in '60,-
249 Q-No,no. You don't understand my question. My question is,-about how old was ~~he~~ at the time of his ordination? A-He was about twelve years old.
250 Q-And he was ordained in the year I843 was he? A-I could not say It might have been early in the year of I844,-it was near that time. I couldn't say the exact date of his ordination, but if I had the history or minutes of that meeting I could tell you,but the history and minutes all went to Salt Lake City,and as it has been so long agao I can't remember.
25I Q-So you state that the history of his ordination and the minutes of the meeting at which he was ordained were taken to Salt Lake? A-Yes sir. They went there. They started for there, but whether they ever reached there I don't know.
252 Q-The redords started for there,but you don't know whether ~~they~~ ever reached Salt Lake or not? Is that what you mean? A-Yes sir they started there,but if they got there or not I don't know,for I was not ~~xxxxx~~ with them. I can't say what became of them after they left my hands.
253 Q-Now what were the circumstances of that ordination? A-I can't tell you. What do you mean? What do you mean by that?
254 Q-Well I mean this,-You stated in your examination in chief that Joseph Smith was ordained by his father in pursuance of a revelation which he had received? A-Yes sir.
255 Q-A revelation from God? A-That is so.
256 Q-Now then I want to enquire as to how you know he received a revelation from God? A-I know it,-I know it was from God.
257 Q-How do you know it? A-I know it because I had it in my hand and read it. It was handed to me,and I use to take care of these things.
258 Q-How was it handed to you? A-By Joseph.
259 Q-In what shape was it written in,-what shape was it handed to you in? A-It was written of course.
260 Q-Were you present when the revelation was made? A-No sir,but it was handed to me.
26I Q-This revelation was handed to you,written out? A-Yes sir,Joseph handed it to me.
262 Q-Now then I will repeat my question and ask you how you know it was a revelation from God? A-How do you know that that bible is true?~~xxxxxxxxxxxxxxxxxx~~?xHow do you know the bible is true? How do you know the testament is true,-answer me that? I believe what the testament teaches me that if we are to live aright we have to have the Spirit of God and of the Holy Ggost the Comforter,that searcheth all things,-even the deep things of God,and makes it manifest to the children of God.
263 Q-Is that your answer? A-I can't give you any other.
264 Q-The question asked you is how do you know the paper handed to you

by Joseph Smith senior,was the revelation of God? A-Well I am convinced and satisfied of it just the same as I am convinced and satisfied that the bible is a revelation from God. I know it.

265 Q-Well,you must have some reasons for knowing it? A-I had reasons. I know that Joseph Smith was a prophet of God,and I knew that Joseph Smith would not say that he had received a revelation from God if he had not. Look at the revelations in that book of Covenants there,and they are in perfect harmony with the bible and book of Mormon;and every revelation he ever gave is in perfect harmony with it,and I am bound to believe that it is in harmony with that,and I can't help believing that,but if they were not in harmony with that I would reject it at once. I know sir that Joseph Smith was a true prophet,and his revelations were from God.-and I know that as well as I know anything on earth.

266 Q-Do you know how a re velation is received? A-How what is received?

267 Q-How a revelation is received? A-Well he had the Urim and Thummim I suppose,-just as they had it in the ancient days. Now sir that is my faith and I know it too,although you may scoff at it.

268 Q-Did he have the Urrim and Thummim? A-He did.

269 Q-How do you know it? A-Because I have seen it.

270 Q-What was it? A-I will not tell you what it is? You must search the bible,for it is not for me to describe these things. He translated the book of Mormon through that,and it is not for me or any one else to tell you what it is.

272 Q-Why do you decline to tell me what the Urrim and Thurmm is? A-It is a gift of God,-an instrument of the Lord that he gives to his servants and prophets.

273 Q-It is? A-Yes sir.

274 Q-How do you know it is? A-Why don't He say so in the bible.

275 Q-Well then go ahead and describe it? A-Now I will just ask you a question.

276 Q-No,no,-you are the one who is asking questions now. I am asking you questions,-you are not telling me these things for me to believe,for I may know all about it,but you are telling them for the information of the Judge of the United States Circuit Court? A-Well I don't mean to tell things to people that ridicule them.

277 Q-Now I made an explanation before I commenced these examinations as to my motives in this examination,and I thought we understood each other, and just see the trouble I have got into? A-Well I think you are going out of your latitude.

By Mr E.L.Kelley,-

278 Q-Well answer his questions Uncle Whitehead,-if you can,-and if you cannot why say so? A-I cannot answer that question better than I have done already.

By Mr Southern,-

279 Q-Well answer this question if you are pleased to do so,what is the Urrim and Thurmm? A-Well Moses had the Urrim and Thummm and the breast plate,-and the rod of heaven,-you know that for you can read it in the bible as well as I can.

280 Q-Well sir the Circuit Judge of the United States Court,before whom this testimony will go will probably want to know something about that,and I do not know how he can find out unless I can get it from the testimony of men who have seen it? A-There are hundreds and thousands of men who have read that bible and they know what it is. They have read it of Aarons rod,for it is written there, I can't describe it,but if I had the bible I could read it for you.

281 Q-You know Joseph Smith,~~xxx it~~ senior,had it? A-Yes sir,he had it.
282 Q-How do you know? A-I have answered that question two or three times already.
283 Q-Well,just answer it again? A-I have seen it.
284 Q-Well ~~d~~describe it? A-Well,I told you it is discribed there. (referring to the bible).
285 Q-Who else did you ever know that had it? A-Well Moses had it.
286 Q-Moses ~~h~~ad it? A-Yes sir.
287 Q-Yes sir,did you know him? A-No sir I did not know him but I have read of him.
288 Q-Well who else? A-There was a great many else had it. It is not for me to say,but I suppose Enoch like enough had it.
289 Q-Who else of the Latter Day Saints that you know of had it? A-Know what?
290 Q-Who else in the re-organized church had it? A-I never said there was any one in the re-organized church had it. I did not say that there was any one in the re-organized church that had it.
291 Q-Well I am asking you who had it in the re-organized church? That is the question I asl~~xx~~ you? A-Well I don't know.
292 Q-Did you ever see any one in the re-organized church of Latter Day Saints that had ~~h~~had it? A-No sir,I don't know of any one that has had it,but I have seen it.
293 Q-You say that you don't know of any one in the re-organized church of Latter Day Saints that has ever had it? A-I don't know that any one in the re-organized church that has ~~xxx~~ it, but they may have seen it for all I know to the contrary.I don't know everything and they may have it for ~~xx~~ all I know.
294 Q-Now you said in your examination in chief that Joseph was ordained? A-He was.
295 Q-With the horn and oil? A-He was annointed with oil,and ordained by direct commandment from Heaven.
295 Q-You know that? A-Yes sir.
296 Q-You know that to be a fact? A-I do.
297 Q-Well will you describr how that was done? A-How he was annointed?
298 Q-Yes sir? A-Yes sir,I can tell you how that was done.
299 Q-Well,please state how that was done? A-Well he was called up, and he was annointed with oil by Hiram,his uncle,the Patriarch of the church,poured the oil upon his head,and Newell K. Whitney,the bishop,he held the horn, and Joseph laid his hands on him and blessed him,and owned him to be his successor in office~~x~~. Now that is the way it was done.
300 Q-Well now then in ~~xxxxxxxx~~ accordance with what law of the church was that ~~xxx~~ done,-if it was done by any law of the church?
By Mr Kelley,-"Well that is objected to for the reason that it is incompetent and immeterial,and not cross examination,and calling for an opinion of the wirness".
A-It was done by direct commandment from Heaven,and I don't believe we have any right to curtail the command of the Lord and say he has not a right to do it,for we would be in a bad fix if we did that.
By Mr Souther,-
301 Q-So I understand you to say that this call,and revelation and ordination of Joseph Smith was in accordance with ~~the~~ a direct ~~c~~ommand from God? A-Yes sir,It was a direct commandment from the Almigh~~t~~y from Heaven,-there can be no answer of doubt of that.

302 Q-You state that as a fact? A-Yes sir.
303 Q-As an absolute fact? A-Yes sir.
304 Q-Now are all the facts as facts that you have stated here, just as true as that fact? A-Why they are according to my knowledge
305 A-And that is as true as anything else you have stated here? Yes sir, for that is as true as it can be.
306 Q-You say it is true? A-I do.
307 Q-And you know it to be true? A-I do.
308 Q-Well I would like you to state how you know it is true? A-By his being ordained and annointed, etc,-if it was not true he would not have been ordained or annointed.
309 Q-And you testify that as a matter of fact, that was done by a revelation from God? A-Well sir I told you a little while ago that the Lord gave his Spirit to his servants, and we have a right to reveive it when it is made known to us. He has said "shall I hide the things I am about to do from my servants the prophets", etc. He made known his will to Abraham, and h has made known his will in many times and ages both before and since, and we are justified in expecting, and have as much right to expect that He will make known his power and Glory in these Latter days to His Church, as under any other dispensation. If we cannot look for and reveive that much of his mercy, I will tell you sir we are in a desperate condition,-but I tell you sir, we can get it for God had renewed his covenant with his people, and his gospel has the power of life unto life, or death unto death. His Son our Saviour has in these latter days has that power, and the Father will sustain it, for is he not His beloved Son in whom we are to believe, unto our salvation, and the salvation of whom soever shall believe and partake of the gift he gives us. I will not tell you a thing but what I know is true whether you believe it or do not believe it,-that does not make any difference to me sir.
310 Q-Your friends will bear me out that I have respected your age, and I have taken no undue advantage of you? A-You must not think sir that I have anything against you, for you are doing your duty I suppose. I have nothing against you sir at all.
311 Q-Now you were at Alton at the time of the death or murder of Joseph Smith? A-Yes sir.
312 Q-Where was he killed? A-He was shot down at Carthage jail, and when he fell through the window out in the yard, there was a man that drew his knife to cut his head off, and that man was smote down with a pillar of fire from Heaven.
313 Q-You know that to be a fact do you? A-Well I was not there at the time, and there is no doubt but it is true.
314 Q-At the time he was killed he left some effects,-some property did he not? A-Yes sir.
315 Q-What was it? A-He left his household goods and other property
316 Q-And also he left the Urim and Thummum? A-Ah, my dear sir the Urim and Thummum was saved. They don't let such things get out. There is no use in your asking me that,-for that is safe enough,-and you could not be made to understand any way, the unbelief that is in you would prevent your understanding.
317 Q-Well he left that did he not? A-Of course he did not take it with him.
318 Q-Now do you know what became of that? A-No sir I don't know where it is.
319 Q-Have you ever seen it since? A-No sir.
320 Q-Has it been in the possession of any man since that time? A-I

do not know.

321 Q-Is it in the possession of the re-organized? A-I can't tell you that for I don't know.

322 Q-Is it in the possession of the Salt Lake Church? A-The Church in Utah?

323 Q-Yes sir. A-I couldn't tell you,but I don't believe it is.

324 Q-You don't know whether or not it is in the possession of the Utah church,but you don't believe it is? A-Yes sir. I believe they are too wicked to have them,-but I don't know.

325 Q-It is on the earth some where? A-Yes sir,but where it is I don't know.

326 Q-Can any one be a prophet and revelator? A-Can what?

327 Q-Can any one be a prophet and revelator without it?

By Mr Kelley,-"That is objected to as not cross examination,irrelevant and immeterial,and calling for an opinion of the witness."

A-I do not know. That is a queer question to ask me.

328 Q-Can any one be a prophet and revelator without the Urim and Thummum? A-Oh I do not know what the Lord will do. He can do just as he pleases about it you know,and he can give His spirit to whom He pleases, but he will not give it to any one unless they are pure in heart.

329 Q-Are you acquainted with the book of Mormon and book of Covenants,and the other Holy books of the church? A-I have read them,and do read them regularly.

330 Q-Do they,or do they not,teach that any one can be a prophet and or revelator,unless they have the Urim and Thummum?

By Mr Kelley,-"We object to that on the part of the plaintiff because it is irrelevant and immeterial,not cross examination, and not the best evidence.

A-No sir,I have never read it so.

By Mr Southern,-

331 Q-Are you acquainted with,and are you familiar with what were the prevailing doctrines of the church at the time it was under the Presidency of the elder Joseph Smith? A-Yes sir I know a great deal about the doctrines of the church then and now,according to what is taught in these books as the doctrine of the church.

332 Q-Was one of the doctrines the doctrine of the baptism for the dead? A-That is a scriptural doctrine.

333 Q-Was that one of the doctrines taught in the old church under the Presidency of Joseph Smith? A-Yes sir they believed in the doctrine of baptism for the dead,and Paul believed in it too, He believed in it and taught it.

334 Q-Does the re-organized church believe in it? A-I do not know.I have never heard them say anything about it.

335 Q-Are you not a priest of the re-organized church? A-Yes sir and I am a preacher in it.

336 Q-You testify that you are a priest and a preacher in the re-organized church? A-Yes sir.

337 Q-And yet you do not know whether that church,-the re-organized church,-holds to the doctrine of baptizm for the dead? A-I don't know whether that has ever been taught in the re-organ ized church. I don't know that it has,but I believe that it has not been taught in it. I will tell you honestly that I do not know that it is taught,-it is not taught in the re-organized church that I know of.now.

338 Q-You do not know although you are a priest and preacher in the

re-organized church,whether the doctrine of baptism for the dead is practiced in that church at the present time or not? A-I do not believe that it ~~xxx~~ is.

339 Q-Is it,or is it not a doctrine of the church that was at one time taught in the church? A-It was a doctrine of the church in the days of Joseph the martyr,but I have never heard it taught in the re-organi zed church.

340 Q-It was a doctrine ~~x~~ in the old church,but it is not practiced in the re-organized church? A-Yes sir. Idon't know of its being practiced in the re-organized church,and it was not practiced in the old church for some time before Joseph was killed,except on a special occasion,as in my instance,and ~~xx~~ then only in compliance with a revelation authorizing its usage.

341 Q-Was there a doctrine ~~in the xx church~~ of this sort in the old church presided over by Joseph Smith,senior.,the doctrine of the gathering of the saints at Nauvoo? A-The what doctrine I don't understand.

342 Q-The doctrine of the gathering of the saints at Nauvoo? A-Yes sir it was taught at Nauvoo,-to gather the saints.

343 Q-That was the doctrine of the church? A-Yes sir,and I have preac -hed that many a time in the old church.

344 Q-Explain what that is? A-Explain what it is?

345 Q-Yes sir? A-What the doctrine of the gathering of the saints is?

346 Q-Yes sir? A- It is the doctrine directing the saints to gather together in holy places,and be true to the doctrine of the covenants and teachings of God and the prophets.

347 Q-What do you mean by that,-to hold their property in common? A-No sir.

348 Q-That was not the doctrine,-teaching the holding of property in common? A-No sir. I don't know anything about that. It never was taught in the old church. It was never taught to my knowledge in the church.

349 Q-Is that a doctrine of the re-organized church of Latter Day Saints? A-I think not. I have never heard it preached,and I do not think it is either.

350 Q-I asked you the question with reference to the re-organized church? A-I understand.

351 Q-And your answer was applied to the re-organized church? A-Yes sir,-to both the old and the re-organized church. I never heard the doctrine of holding property in common in either church.

352 Q-Do you know what the doctrine of polygamy is? A-I have heard it taught and despised it,and hate it.

353 Q-I have no doubt of that? A-I hate and despise it. It is a doc-trine of the devil,-there is no question about that. I do not believe in it or uphold or countenance it in any way,for I believe in the words of the book"thou shalt have one wife".

354 Q-Where did you hear it taught? A-I never heard Joseph teach that in His life.

355 Q-Where did you hear it taught? A-I heard Brigham Young teach it.

356 Q-Where? A-At Nauvoo.

357 Q-When? A-After Joseph was killed,and that was one reason I left there,for I did not believe in it.

358 Q-Now you say that the doctrine of Polygamy was taught by Brigham Young at Nauvoo,after the death of Joseph Smith? A-Yes sir. I heard Brigham Young teach it there,and I ~~xxxxxxxx~~ left there then for I did not believe in it,and I saw enough to convince me that it was

time for me to leave.

359 Q-For what length of time was it taught? A-As long as they were there after it was commenced.

360 Q-Did they commence preaching and teaching it immediately after Joseph Smith's death? A-No sir not right away after he died.

361 Q-What length of time was it after Joseph'd death that the doctrine of polygamy was begun to be taught there? A-Well they did not commence right away after he was killed,but they were preaching it at the time they went away from there.

362 Q-When did they go away from there? A-Well they started in '46, and they kept going.

363 Q-Did all the polygamists leave? A-I don't know where they all went.

364 Q-Did they leave Nauvoo? A-I don't know whether they all left or not.

365 Q-Well what is your best recollection as to that? A-I could not say,for I don't remember. I expect they all did though. I could not answer that question for I don't know wehther they did or not.

366 Q-Did they practice polygamy as well as teach it before they left? By Mr Kelley,-"We object to that on the ground that it is irrelevant and immeterial,and not cross examination."

By Mr Southern,-

367 Q-Answer the question? A-What is the question?

368 Q-I asked you if the practiced polygamy as well as preached it at Nauvoo before they left there? A-In Joseph's day?

369 Q-No sir,after the death of Joseph Smith? A-Well I rather think some of them did,though I would not swear to that.

370 Q-I would like very well if you could state Mr Whitehead which of these elders you have mentioned,-if any of the twelve I mean, -practiced polygamy,-or taught the practice of polygamy?

By Mr Kelley,-"Well that we object to also because it is incompetent,irrelevant and immeterial,and calling for an opinion of the witness,and is not proper cross examination."

By Mr Southern,-

371 Q-Can you answer that question? A-Well you would probably know quite as well as I do.

372 Q-Well I was asking you if you knew of any of the twelve whom you saw at Omaha who left Nauvoo? A-After Joseph was killed they did.

373 Q-Practiced polygamy at Nauvoo? A-Yes sir.

374 Q-Which one of them did? A-Brigham Young did. At least his wife said so,and I guess she told the truth. That is all I know about it,and I know she went crazy about it.

375 Q-What about Heber Kimball? A-Well I heard that too,but that is a thing that is hard to prove,for I did not see it and I don't know that it was so.

376 Q-Well,its prevalence was so great at Nauvoo that as a consequence you left the church? A-Yes sir. I departed from the church as soon as I got my work finished,but I always all the time thought that if the church could be rid of these impurities I would go back to it,and I did,for I knew all the time it was the true church,and the truth that Joseph taught. When I went to the winter quarters at Omaha I saw such work carried on there that I was sick from seeing it,and I determined to get out of it as quick as I could,and I did get out of it too

377 Q-Mr Whitehead were you at Nauvoo at the time the Expositor

office was destroyed? A-The what was destroyed.

378 Q-At the time that the Expositor office was destroyed,-were you at Nauvoo at that time? A-I was.

379 Q- You were there at that time? A-I was. Yes sir I was there at that time.

380 Q-Were you familiar with the paper? A-Was I what,-with the paper?

381 Q-Were you acquainted with,and familiar with the paper?

By Mr Kelley,-"Plaintiff objects to that question for the reason that it is immeterial,and incompetent,and improper cross-examination,"

By Mr Souther,-

382 Q-You may answer the question? A-No sir I was not familiar with the paper,and had nothing to do with it,and never read one of them. I had nothing to do with it,but I knew there was a paper published there by that name.

383 Q-You say you never read one of them? A-No sir I did not.

384 Q-By what authority was that paper published?

By Mr Kelley,-"Well we object to that for the same reasons as are given in the last preceeding objection".

By Mr Southern,-

385 Q-Answer the question? A-I don't know anything about that paper or what authority they had.

386 Q-You do not know by what authority that paper was published? A-No sir.

387 Q-Did you hear anything about the charge of polygamy being made against the church there at Nauvoo prior to the death of Joseph Smith?

By Mr Kelley,-"We object to that also on the ground that it is incompetent,irrelevant and Immeterial,not cross examination and calls for the opinion of the witness".

By Mr Southern,-

388 Q-Do you understand the question? ~~A-Well I couldn't say for I never heard anything about polygamy until after the time that Joseph was killed.~~ A-Yes sir.

389 Q-Well what is your answer? A-Well I couldn't say for I never heard anything about polygamy until after the time that Joseph was killed.

390 Q-I asked you,or intended to ask you if you knew anything of your own knowledge about it? A-No sir,nothing until after Joseph was killed.

391 Q-Was it ~~correctly~~ commonly reported that polygamy was preached in the church prior to the death of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immeterial,not proper cross examination and calling for hearsay evidence.

A-I could not answer these questions satisfactorily to myself because I do not know anything about it.

392 Q-Your recollection don't serve you as to that matter? A-No sir I don't think that I ever heard such a thing,and all my life from my childhood up I hated and despised the cursed thing.

393 Q-Did you know Austin Cowles? A-I did.

394 Q-You knew a man by that name? A-Yes sir.

395 Q-And William Law? A-I knew them both.

396 Q-Were they members of the old church? A-They were at one time. At one time they were members of the church.

397 Q-Was that prior to the death of Joseph Smith? A-No sir they were not members of the church at the time of the death of Joseph. They were not in the church then. I don't know much about Law whether he went away or not,but I know that he was a member of the

church at one time.
398 Q-Did they leave the church? A-Cole?
399 Q-Yes sir? A-No sir I don't know anything about him. I don't know where he went to.
400 Q-Do you know when he left the church? A-Oh yes sir I know when William Cole was cut off from the church,
401 Q-What was he cut off from the church for?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is improper cross examination is incompetent,irrelevant and Immeterial,and is hearsay.
402 Q-What was William Cole expelled from the church for? A-For adultery.
403 Q-Was it adultery or polygamy?
Counsel for the plaintiff objects to the question asked the witness for the reasons as set forth in the last preceeding objection A-It was not for polygamy,it was for adultery.
404 Q-Now recurring for a moment to the ordination of young Joseph Smith,-I believe you stated that was done by and in consequen-ce of a direct revelation? A-Yes sir.
405 Q-To your knowledge it was a direct revelation from God? A-Well now I have answered that question three or four times,and I don't feel inclined or willing to answer it any more.
406 Q-Well I believe you are right sir,-that is all right,-I will not insist upon your answering it now? A-Yes sir,I think I am right.
407 Q-Well now I wanted to ask the further question as to whether or not the church took any action upon the subject prior to the ordination of Joseph Smith? A-Upon what subject?
408 Q-Upon the subject of polygamy? A-You mean before the ordination of young Joseph?
409 Q-Yes sir? A-No sir,there was no occasion for any action upon the question of polygamy,-
410 Q-Did I say polygamy,-if I did it was an error,-I meant to ask the question as to whether or not the church as a body took any action upon the ordination of young Joseph,and prior to the time that he was ordained? A-Yes sir.
411 Q-What action did they take? A-They consented to it. The church consented to it.
412' Q-What church? A-The Church of Jesus Christ of Latter Day Saints
413 Q-What body of that church took action upon that matter? A-The church itself did.
414 Q-Well in what manner did the church take action? A-There were thousands of them. I can tell you just how that was if you will give me time.
415 Q-Well tell me,and take all the time you want to,to do so?
A-I can do that,-the High Council endorsed it,and then it was brought up before the whole body of the whole congrega-tion,-the whole peole,and there were thousands there,and they agreed to it. The agreed to it,and endorsed it,and Joseph endorsed it,and laid his hands upon the head of young Joseph,and said he was appointed in his place.
416 Q-Said who was appointed in his place? A-That young Joseph was appointed in his place. He said you will be our leader and the first elder of the church he said(???).
417 Q-Where was that done? A-At Nauvoo.
418 Q-Where abouts in Nauvoo? A-Right there in Nauvoo right at the east end of the temple.

419 Q-That was in Nauvoo at the east end of the temple? A-Yes sir,and there were thousands there and saw it I suppose.
420 Q-Can you tell about how many people were present? A-I cannot but I know there was a big congregation there,for we had big congregations in those days.
421 Q-Well,how many about were there? A-Well I should think there was as many as two or three thousand there.
422 Q-Was there any record kept of it?? A-Yes sir,there was of course ,-there was a record of everything kept in those days,and these records,-everyone of them,-were taken to Salt Lake.
423 Q-Were you present? A-What is that?
424 Q-Were you present on that occassion? A-I was present sir.
425 Q-Was there a vote taken on that question? Yes sir there was a voto taken. They consented to it.
426 Q-Who consented to it? A-The people did.
427 Q-Was there a vote taken? A-Yes sir,they consented to it.
428 Q-Was there a vote taken? A-Yes sir,I have told you three times there was.
429 Q-How was that vote taken? A-By raising their right hand I think.
430 Q-The vote was taken by raising their right hands? A-Yes sir.
431 Q-Of the people present? A-Yes sir.
432 Q-Was there a negative vote taken? A-Yes sir,but nobody voted in the negative.
433 Q-How many votes was there in the affirmative? A-It was unanimous for all that any body could see,and I suppose there was nearly three thousand people there,and perhaps more than that?
434 Q-Who took the vote? A-H Joseph asked them.
435 Q-Who called them over,-who called the vote over? A-He had been prezching,and he called up young Joseph and said he was his successor in office.
436 Q-What else did he say,if anything? A-He said"I am going to rest"
437 Q-Was that the first notice the people had? A-No sir,it was known before,but that was the first public call that was made.
438 Q-Then the people did not assemble that day especially for that purpose? A-It was going to be brought up that day.
439 Q-The question of the announcement of the successorship of young Joseph was going to be called up that day? A-Yes sir.
440 Q-Did the people knew it was going to be called or brought up that day? Did they know it was to be called up that day,and did they come there for that purpose,or did they come there to attend the ordinary church service? A-No sir,they knew it,-but we were used to them,-to these big congregations in those days anyhow.
441 Q-Was that action taken prior to the ordination of Joseph,or after the ordination? A-It was after the ordination.
442 Q-There was no such action as was taken there that day when the fact was announced to the people,-there was no action of that character taken prior to the ordination of Joseph? A-No sir, not by the mass of the people.
443 Q-Have you read the first edition of the book of covenants through A-Yes sir,I have.
444 Q-Do you recognize this book I now hand you? A-Yes sir,that was the first I had. I don't know whether there was one bedfre that or not. I never saw it until'48,for I was not in the country.
445 Q-Is there any other edition than the first edition? A-I don't know whether there is or not. I don't know whether it was the first one or not,but I got it in '48.

446 Q-Have you studied it thouroughly? A-Well I have read it,and that is enough.

447 Q-Are you acquainted with all its doctrines? A-A+++'its what?

448 Q-All its doctrines,-are you acquainted with all its doctrines? A-Well now I could not keep them all in my memory,-that is impossible for me to do,but I think I know about what it is, and what is in it.

449 Q-Now you identified a book here this morning as the book of doctrine and Covenants I believe,-you identified the book as the book of doctrine and covenants? A-Yes sir.

450 Q-And do you now say that that is the same book and contains the same doctrines as the book that you first saw and read in1848 A-It is as far as I can remember.

45I Q-Well,do you say it is or is not the same? A-It is as far as I can remember. It is as far as I know I say. I don't know any difference in them. I have read it through more than once but I can't remember everything that is in it,but to the best of my recollection they are the same.

452 Q-Can you testify that this book put in testimony here to-day,as the book of Doctrine and Covenants,contains precisely the same doctrines as the book which you first read? A-I believe it does,the same doctrine,but of course I can't specify every sentence that is in it,but I believe that the two books are the same,-I believe they are exactly the same.

453 Q-You have not read this book through,-the book of Doctrine and Covenants? A-The book of Covenants,-yes sir I have many a time.

454 Q-This book that has been introduced in evidence here? A-What edition is that? A-This is the I835 edition is it not?

455 Q-Yes sir,this is the edition of I835? A-The one I had was published in '48,-I have read that one through over and over again.

456 Q-The one of the edition of I848? A-Ye ssir.

457 Q-Do you know whether or not this book contains the same doctrines as the one that you say you have read through? A-I think it does.

458 Q-Do you know that it does? A-As far as I recollect it does.

459 Q-How far have you examinaed this? A-Well I have read the book of Covenants through,and I suppose this is the same. I don't see anything that is different from the one I read.

460 Q-How far have you examined this book? A-Well I could tell you if I knew whether it was the one I had received at first or not. If I knew that I could soon tell you.

461 Q-Well my question is,how far have you read that book that is now in yourhand? A-Well I don't know that there is any difference in them.

462 Q-My question is how far have you read it,-now that is the question for you to answer? A-I have read that book of Covenants more than once.

463 Q-Have you read that identical book through that you hold in your hands now? A-Well I believe that to-day is the first time I have had this book in my hands. That is the book that is used,-the book itself I haven't handled before to-day,but that refers to the book itself,but the principles it contains is a different thing.

464 Q-Well now,will you please state how far you have read this book ~~of Covenants through time and again.~~ A — I have read the book of covenants through time and again that you have there in your hand?

465 Q-But this book,how far have you read it? A-I can't answer that question so far as the individual book is concerned

466 Q-Is it not a fact that you have not read this book at all?
A-Well I guess I have.

467 Q-Well isn't it a fact Mr Whitehead,that this book you have not read at all? A-I say that it is a fact that I have read the revelations in this book,but it was in another publication, for this book has been published many times.

468 Q-Have you read this book at all? A-Yes sir,I believe I have.

469 Q-This identical book? A-Yes sir,I have read the same matter that is in it.

470 Q-How do you know that it was the same matter? A-I know it.

471 Q-How do you know it? A-I know it just the same way that I know other things. These books are all alike,-you can't find two that are different even if they are different publications or editions. Of course though these two books are the same without I compared them,but I think you will find they are the same.

472 Q-Well certainly not. I thought that was the fact. Now here is another book called the Book of Mormon? A-Yes sir.

473 Q-Did you ever see this book Before? A-Well I could not say that I saw that individual book;but I have seen a great of the book of Mormon,and have it now,and have read it time and again.

474 Q-Did you ever see this particular book before to-day? A-Well that is a very strange question. I can't answer these questions. I have seen the Book of Mormon thousands of times I suppose.

475 Q-Well I know that,but my question is simply if you have seen this particular book before to-day? A-I would not say that I have seen that Identical volume.

476 Q-Have you read this book that I hold in my hand there? A-Well now I can't answer that question. I don't know how to answer that question. I have read the matter that is it time and time again,but it might have been in another volume,and ~~in another~~ it might be that I have read it in that. I can't say,for I don't know whether I did or not,for I have read out of a great many of these books. It might have been in another volume,and in another edition for all I know, but the matter is the same.

477 Q-How do you know it was the same matter? A-How is that?

478 Q-How do you know it was the same matter that was in the book or books that you read,as is in this one? A-Well I have read the Book of Mormon through and through,but whether it was that identical book or not that book I couldn't say, I ~~recollect~~ couldn't say as to that,but I have read it through and through and they are always alike,and I know the Book of Mormon is true.

479 Q-Well as I understand you,you have never read this book? A-I cannot answer that question.

480 Q-You cannot answer that question? A-No sir.

481 Q-Very well,we will leave it there then,Now have you ever read the Palmyra edition of the Book of Mormon? A-No I haven't.I have read the Book of Mormon,-that is to say it is the same reading matter,-the text is the same I expect,but I can't say that I have read the text of both and they are the same.

482 Q-You have also identified a book here called the Times and Seasons? A-Yes sir.

483 Q-You have seen that before? A-Yes sir,and I have them at home every one of them.

484 Q-Did you ever see this book here before? A-The Times and Seasons?

485 Q-Yes sir? A-Well yes,of course I have. I have the Times and Seasons,-the whole six volumes.

486 Q-Did you ever see this book that I hold in my hand before? A-I don't know that I ever saw this identical book before,but I have seen the Times and Seasons,and had them,and read them, and have them now.

487 Q-Did you ever read the inspired translation of the Holy Bible? A-Yes sir.

488 Q-In the old church? A-Yes sir,and I have it now.

489 Q-This translation of the bible(handing witness a book)? A-Yes sir I have read it,but not in the old church,or in Joseph's day I mean,for the reason that it was not published then. It hadn't been printed then.

490 Q-Why had it not been printed? A-Because it was in the form of manuscript. It was in the manuscript at the time he died,and it was found afterwards and published.

491 Q-When was it published? A-It was published by the re-organized church. Mrs.Ala Smith had the manuscript,and the Salt Lake Mormons found out that she had it,and they offered her fifty thousand dollars($50,000,oo)for it,if she would deliver it up to them but she would not do it.

492 Q-Do you know who made the inspired translation? A-Yes sir,I know how it was done?

493 Q-Well,how was it done,-just explain yourself? A-It was a dream. It was translated by what we have been talking about,-the Urim and Thummim.

494 Q-In whose hands? A-In the hands of Joseph the Martyr,-in the hands of he that was killed,-Joseph the Martyr.

495 Q-Now do you state here upon your oath that the inspired translation of the Holy Scriptures which you have identified here, was made by Joseph Smith the man that was killed at Nauvoo? A-I did not say that.

496 Q-You do not understand the question? A-Well what is it?

497 Q-I asked you if you stated here upon your oath that the translation of the Holy Scriptures which you have identified here was made by Joseph Smith.the man that was killed at Nauvoo?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that the same is incompetent irrelevant and immeterial,to any of the issues in this case,- is improper cross examinaation,and calls for an opinion of the witness,

A-What was the question?

498 Q-I asked you if you stated it as a fact upon your oath that the translation of the Holy Scriptures which you identified here, was made by & Joseph Smith the man that was killed at Nauvoo? A-I said he was killed at Carthage,-Joseph Smith was killed at Carthage.

499 Q-Well Joseph Smith the man that was killed at Carthage,-do you state it as a fact on your oath that the translation of the Holy Scriptures which you hold in your hand now was made by him? A-I do sir. Yes sir,that is a bact. They were translated by him with the Urim and Thummim.

500 Q-Please look at the preface of this book which I now hand you,- please read the preface of this book which I now hand you,and say if that is the book that was translated? A-"The Holy Scriptures translated and corrected by the spirit of revelation,by Joseph Smith,junior,the seer. Published by the Church of Jesus Christ of Latter Day Saints. Joseph Smith;I.L.Rogers ;E.Robinson Publishing committee,1867. Now that is the way it was.- It was translated by Joseph the seer,as it says,and how could that possibly have been done without the Urim and Thummim.

501 Q-That translation was made by Joseph Smith the son of the man

that was killed at Nauvoo? A-It was made by him. I did not say this Joseph.

502 Q-Well read that preface again and see what it says? A-It says by Joseph Smith junior the seer.

503 Q-Well don't that mean this Joseph? A-No sir. Recollect that Joseph the Martyrs father was living at that time,and he was called junior,and he was Joseph Smith,junior at that time for his father was living still. You did not understand me possibly,but that was the way it was.

504 Q-Have you read this book called the Times and Seasons?
A-Have I read it all the time?

505 Q-No,have you read this book I hold in my hand called the'Times and Seasons? which you identified this morning? A-Yes sir,I probably have. I guess I have read them all. I have them all and I have read them.

506 Q-Have you read this book? A-I read it very often(witness being deaf,evidently does not understand the question asked him).

507 Q-Have you read this book which I now hand you? A-I can't say that I have read that identical book,but I have read other books of the same kind,-the same issue,-there never was but one issue of the paper.-that is it was not re-printed,and of course as I have them all and have read them,I have read a duplicate of this.

508 Q-Did you ever read in the Times and Seasons,any history of the life of Joseph Smith who was killed at Nauvoo? A-Yes sir,I have read a great deal in that book.

509 Q-Did you ever read in that the history written by Joseph Smith senior? A-Read what?

5I0 Q-Read the statement that after the translation of the Book of Mormon,that he had to give up the Urim and Thummmm?
Counsel for the plaintiff objects to the question asked the witness for the reason that the same is improper cross examination, irrelevant, immeterial and incompetent, and not the best evidence".
A-There is an Urim and Thummm,but there are different kinds that the Lord has,and as he only had them to interpret he did give them up,-he gave them up and the very plates that were translated he gave up again to the very angel that he took them from,and that angel has hid them,but they will come again in the Lords time,of that you can depend sir.

5I1 Q-Do on the ground and for the reason that it is incompetent,and immeterial,-improper cross examination and not the best evidence of the fact sought to be proven.

5I1 Q-Do you remember remember reading about that? A-I don't remember anything about that. Do you mean about translating the Book of Mormon?

5I2 Q-Yes sir? A-He translated off them plates by the gift and power of God sir,and by the interpreters,-

5I3 Q-Did you read in that history as written by Joseph Smith senior, that he gave up the Urim and Thummmm?
Counsel for the plaintiff objects to the question asked the witness for the reason that the same is improper cross-examination, irrelevant,immeterial and incompetent,and not the best evidence"-
A-There is an Urim and Thummmm,but there are different kinds that the Lord has,and as he only had them to interpret he did give them up,-he gave them up and the very plates that were translated he gave up again to the very angel that he took them from,and that angel has hid them,but they will come again in the Lords time,of that you can depend sir.

5I4 Q-Well now Mr Whitehead,you have stated both in your direct,and and in your cross examination,that you became a member of the church in England? A-Yes sir.

5I5 Q-And that you came across the waters,and landed at New Orleans and went from there to Nauvoo? A-Yes sir,That is correct.

516 Q - And that you became a member of the church at Nauvoo? A - I said I was a member when I went there.

517 Q - You joined the church primarily in England? A - Yes, sir.

518 Q - And you brought your certificate and joined the church at Nauvoo?

A-Yes sir.
519 Q-And that the church became so corrupt there that you left it?
A-Yes sir.
520 Q-It became so corrupt,-that is the church at Nauvoo became so corrupt that you left it? A-Yes sir,but not at that time.
521 Q-It was afterwards that you left it on account of its corruption?
A-Yes sir,long afterwards.
522 Q-When was it that you left the church on account of its corruption? A-It was after Joseph was killed.
523 Q-After the death of Joseph you left the Church? A-Yes sir. It was some time after he was killed that I left it though,-it was not right away that I left it. I left it as soon as I finished my labors as secretary of Joseph,and made my report.
524 Q-Now then Mr Whitehead is this church to which you belong the same church to which you belonged at Nauvoo? A-Yes sir.
525 Q-You say it is the same church? A-It is. It is sir,and it teaches the same doctrine that Joseph taught.
526 Q-The same doctrines that who taught? A-It is the same church, and it teaches the same doctrine that Joseph the Martyr taught. It teaches the same identical doctrine.
527 Q-Well now answer my question directly,yes,or no,is the Church,-the Re-organized church of Jesus Christ of Latter Day Saints 'to which you belong now the same churc to which you belonged at Nauvoo? A-It is.
528 Q-Is it the same church to which you belonged at Nauvoo and which you left on account of its corruption? A-It is the same church as that was before it fell into corruption,and teaches the same doctrine.
529 Q-Now I will ask you this question,-Is the Re-organized church of Jesus Christ of Latter Day Saints to which you now belong,the same church as the church at Nauvoo was when you left it? A-No sir. When I left the church at ~~Nauvoo~~ Nauvoo it was corrupt,but this church is not corrupt now.
530 Q-This church you say in not corrupt? A-No sir.
531 Q-Whish church is that? A-The re-organized church is not corrupt, but the church at Nauvoo was when I left it.
532 Q-This church,-this Re-organized church of Jesus Christ of Latter Day Saints is not corrupt? A-No sir.
533 Q-And that church at Nauvoo is? A-Yes sir.
534 Q-Now you say that this corruption crept into the church at Nauvoo after the death of Joseph Smith? A-Yes sir.
535 Q-Now is this church the same as that church was at the time you left it? A-No sir.
536 Q-It is not? A-No sir.
539 Q-Wherein do they differ? A-That was the apostate church,-they had denied their faith and principles,and this church is a reorganization of the old church again,or the true church again as it existed in the days of Joseph the Martyr.
540 Q-They apostated,and denied their principles,and this church you claim is a reorganization of the old church again? A-Yes sir
541 Q-You have heard the elder Joseph Smith preach,have you not?
A-He that was the Martyr?
542 Q-Yes sir? A-Oh yes,I have heard him preach many and many a time
543 Q-Did you ever hear him announce this doctrine,-? A-I don't know what it is.
544 Q-Well here it is,-"There shall be no more baptisms for the dead until the ordinance has been attended to in the font of the Lords

house,and the church shall not hold another General Conference until they can meet in said house,for thus saith the Lord"? Did you ever hear the elder Joseph Smith announce that doctrine?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is incompetent,irrelevant and immeterial,and not the best evidence and not cross examination.

A-I have heard of it,but I did not hear it.

545 Q-You say you have heard of it but you never heard it? A-I have heard of it.This occured in America before I came here.

546 Q-Did you ever witness any baptisms for the dead before you,-Imean to say,did you ever witness any baptisms for the dead after you came to Nauvoo?

Counsel for the plaintiff objects to the question for the same reasons and on the same grounds as the last preceeding question is objected to.

A-I was not there until '42.

547 Q-Well I said,after you came to Nauvoo did you ever witness any baptisms for the dead? A-Yes sir,I did one,and I will tell you why if you want to know,

548 Q-Well I want to know? A-Well it was because it was for myself. There is no harm in telling that. I will tell you how it came about. Now the Lord did not say absolutely that there should be no more baptisms for the dead,for he could give his permission to his servant by revelation to do the ordinance of baptism for the dead. He could give permission for any one to be baptized if it was His will,and when I went there to Nauvoo I was very mush troubled because of that,and why,-because I wanted to be baptized for my father.

549 Q-You were very much troubled because of what? A-Because of the fact that baptism for the dead had been stopped,and there could be no more baptized without a direct commission or revelation from Heaven. I was talking to one of the High Council about this,and told him how sorry I was,and he said,well he would "speak to Joseph about it,he can ask the Lord about it,and the Lord may give you the ptivClege,but you can't be baptized without it",and I will speak to Joseph about it myself",and he did,and Joseph did enquire,and the Lord did give him the privelege,-or I ought to say the Lord did give me the privelege to be baptized for my father,and that is the only baptism for the dead that I ever saw,Now there are the facts,and you can make out of it what you have a mind to, but that is the truth.

550 Q-That is the way that came about? A-Yes sir,and you can make out of it just what you like.

55I Q-Have you been in the temple at Nauvoo? A-Well yes sir,I have been in it many a time,for I use to measure all the stone for them,and the carpenter work and all that.

552 Q-Was there a font in the temple for the baptism of the dead? A-Yes and it stood on twelve oxen cut out of ~~the~~ stone.

553 Q-And you never saw that font used? A-No sir I don't think it was ever used,because Joseph was killed and the temple was never finished.

554 Q-Was there ever a General conference of the church held at Nauvoo while you were there? A-What is that?

555 Q-Was there ever a General Conference of the church held at Nauvoo while you were there? A-Yes sir,of course there was. There was one every half year then.

556 Q-Every six months at that time there was a general conference?
A-Yes sir.
557 Q-That is theyheld conferences at that place,-at that point,-at that time,where did they hold them? A-Where did they hold them,-where did they hold the conferences?
558 Q-Yes sir? A-They would generally hold them in the grove,for there was no building that was large enough to hold them in, and the temple was not finished.
559 Q-In holding these conferences was it not in conflict with this doctrine or revelation that conferences were not to be held?
Counsel for the plaintiff objects to the question asked the witness for the reas on that it is incompetent and immeterial,and not proper cross examination and calling for an opinion of the witness.
560 Q-Answer the question? A-Well I don't know about that. I don't think I understand your question.
561 Q-Well if they did hold conferences,which you say they did?
A-Yes sir we had conferences.
562 Q-Was it not in conflict with this doctrine preached by Joseph concerning conferences and baptism for the dead which I have just quoted to you? A-
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is immeterial,and incompetent,not cross-examination,and calling for an opinion of the witness.
A-I never heard it preached at the conferences.
563 Q-Then you don't think it was in conflict with the doctrine?
A-I used to go to the conference.
564 Q-You do not think it was in conflict with the doctrine preached by Joseph?(witness evidently does not understand the question) Well let that go then, I will ask you now if you remember a visit that was made to you by Aleck H.Smith in 1884?
A-Do I remember a visit that was made to me in '84 by Aleck H.Smith?
565 Q-Yes sir? A-Tell me what the visit was about?
566 Q-A visit that he made to you when you were living at Alton?
A-I lived there at that time.
567 Q-Well do you remember the occasion of a visit that Aleck H.Smith paid to you while you lived at Alton about the year 1884?
A-He has been at my house different times while I lived there
568 Q-Well when he was there at your place while you lived at Alton, have you ever talked over church matters with him? A-Oh yes sir in a general way we did,but I could not tell what all we talked about. He used to come to my house at different times when I lived there.
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,and immeterial,not cross examination,and moves the court to strike out the answer of the witness for the same reasons.
569 Q-Do you remember that you and Mr Smith conversed over,or about the revelation of Joseph as to the length of time from that time when the Saints would return to Missouri to build up the temple?
Counsel for the plaintiff objects to the question asked the witness for the reasoms that it is incompetent,irrelevant and immeterial,not cross-examination.
A-We might have talked about it,but I don't recollect it if we did.
570 Q-You don't recollect it? A-No sir,I don't recollect it. We might have talked that over,but I don't revollect it if we did.
571 Q-Did Joseph ever have any revelation,or announce any revelation

as to how long it would be from the first organization of the church,until the temple at Independence,Missouri,would be ~~kuk~~ built?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is irrelevant, incompetent,and immeterial,and does not call for the best evidence,and is improper cross examination.

A-No sir,I don't remember hearing him say anything about it.

572 Q-You did not hear him say that,-you have no recollection of hearing him say that? A-No sir,I don't believe I did. I don't think I ever heard him say the time. Now I want you to understand that I speak as I recollect,and I don't recollect hearing him say anything about that at all,-that is between Alexander and me,although we might have talked about it,-I don't know whether we did or not.

573 Q-You refer now to conversations had between yourself and ~~Jaxaphxx~~ Aleck H,Smith? A-Yes sir.

574 Q-Were you acquainted with the organization of the church at Nauvoo Illinois when you were there? A-Well I don't know what you mean be"being acquainted with the organization" of the church while I was there.

575 Q-I mean by that the kind of an organization it had?

A-Yes sir I was,and it had the same kind of an organization that the re-organized church has.

576 Q-Well will you please state what kind of an organization the church had? A-Well I don't know that I can.

577 Q-Well I would like for you to state how it was organized if you please? A-I can't recollect all the minutes,and I don't believe it would be right for me to attempt it. I don't think it would be right for me to attempt it because I can't tell everything about it.

578 Q-Well I omly ask you to state it as far as you know? A-Well I don't like to try to tell a thing that I don't know just right. I don't like to undertake a thing that I can't accomplish,and if I could remember everything about it,I would do it in a moment,but I can't do that.

579 Q-Can you state whether or not at that time,while you were at Nauvoo,there was in the church such an office as District President? A-"District President"?

580 Q-Yes sir? A-Yes sir,there was.

581 Q-What was the function of that office? A-

Counsel for the plaintiff objects to the question asked the witness for the reason that it is immeterial,not cross examination and not calling for the best evidence,

582 ~~xxxxx~~ A-Well you must not expect that I can commence and explain everything about the organization and the duties of the different officers that were in the church,-that would take up too much time,and I don't know that I am able to do it any way. It is not reasonable to ask me and I cannot do it.

582 Q-Are you just as sure about that fact as you are about any of these other facts that you have testified to? A-About what fact?

583 Q-About the fact that there was such an ~~organizaxixxxxxxxxxxoffice~~ in the ~~x~~organization as it existed at Nauvoo in the days of Joseph Smith~~x~~ that of District President? A-Yes sir.

584 Q-You are as sure of that fact,-? A-I know there was.

585 Q-Are you as sure of that fact,as you are of any other of the facts to which you have testified? A-Yes sir.

586 Q-Did you at that time have a book called the rules of order? Yes sir.

587 Q-Have you ever seen that book? A-Yes sir,and I have read in it some.

588 Q-Where is that book now? A-What,my book?

589 Q-In the book of the rules of order,-it don't matter whether it is your bock or some other book,-do you know where there is one of them?(witness does not answer,and it is evident that he does not understand the question that ~~x~~ asked him) At the time you were with the church at Nauvoo Illinois,did the church have such a book as the book called the"Rules of Order A-Well I can't answer that,for I don't know about that.I don't recollect about that.

590 Q-Does the present church,-the re-organized church,-have such a book? A-There is a book called the"Rules of Order" to regu late matters in different ways.

591 Q-Does the re-organized church have such a book? A-I don't know how to answer that,for I don't know every book that is going, I couldn't read every one of them,if I was to read all the time.

592 Q-Your answer is that you don't know?
By Mr E.L.Kelley,-
"I insist upon the witness understanding the question,before he is required to answer it". A-I don't know why I should be called on to answer these questions.

593 Q-Well never mind Father Whitehead just listen to his questions and try to understand them,and answer them?
By Mr Southern,- 594 Q- Does the present re-organized church have a book called the "Rules of Order"?

594 Q-Is it the same book that you had when you were at Nauvoo,Illinois? A-I never saw one there,and I don't recollect that we had one there. There might have been one there,but I did not have it.

595 Q-You don't know whether or not there was one at Nauvoo? A-No sir I don't know whether there was or not.

596 Q-Do you have a sysytem of rules of representation in the re-organized church? A-Rules of what?

597 Q-Rules of representation,-did you have a system of rules of repre sentation in this church? A-I never saw one.

598 Q-Is there a system of representation in the church to which you now belong? A-Well now I want to understand what you mean,-do you mean in regard to when the conference is?

599 Q-Yes sir? A-Why yes sir,they have delegates sent from all the branches.

600 Q-Well if there is a system what is it? A-It is a system that represents the bramches.

601 Q-What is the system of representation?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial and irrelevant,not cross examination and does not call for the best evidence of the fact.
A—Suppose you were the President of a branch,and you were ruling that branch,and there was a conference to be held,you would have to send delegates from that branch to represent it in the conference.

602 Q-Do delegates represent branches,or do they simply represent individuals members of the branch?
Counsel for the plaintiff objects to the question asked the witness for the reasons given in the last preceeding objection.
A-Branches and members are the same.

603 Q-How many members are entitled to a delegate? A-How many are what?

A - I know that there is a book that regulates affairs when they are given us), - it is to have order and not confusion.

604 Q-How many members are entitled to a delegate? A-Oh that varies, Some times ~~it~~ ~~is~~ ~~one~~ ~~member~~ ~~and~~ ~~some~~ ~~times~~ it is one member and some times there is another,and I don't know what it is now.

605 Q-Now did you have the same system in the church at Nauvoo? A-We had the same system exactly that we have in the reOorganized church.

606 Q-The same system as to representation for delegates? A-Yes sir, as to delegates it was just exactly the same.

607 Q-Did you have conferences the same then as you have now? A-Yes sir,just exactly the same. We might not have them as often,-it don't say they shall be kept as often,but the conferences were conducted in the same way.

608 Q-Did they,when you were a member of the church at Nauvoo,allow lay members and sisters to act as delegates?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immeterial,not proper cross examination,and not calling for the best evidence.

A-Well I don't know.

609 Q-You never saw it? A-No sir,not in the church at Nauvoo.

6I0 Q-Does the re-organized church allow lay members and sisters to act as delegates?

Counsel for the witness objects to the question asked the witness for the reasons and on the same grounds as is given to the last preceeding question objected to.

A-If they do I don't know it I have never seen it.

6II Q-Well I believe that completes the cross examination of this witness,-No it doesn't. I have a few further questions to ask. Did you know one William Marks at Nauvoo? A-Yes sir I knew him.

6I2 Q-Who was he? A-Who was he,-why he was a brorher in the church.

6I3 Q-Who was he? A-Why he was a high priest,a member of the high council,and President of the stake. He was President of the stake there at Nauvoo.

6I4 Q-What became of him? A-Why I believe he is dead.

6I5 Q-Where did he go from Nauvoo? A-He went up north some where from Nauvoo.

6I6 Q-Do you know where he went? A-No sir I don't know where he went for I never paid any attention to it.

6I7 Q-You stated a while ago the names of the twelve that you met at Salt Lake,-at Omaha I mean? A-I did not say they were all there. I did not say the twelve were all there at Omaha.

6I8 Q-Well I wanted to ask you now whether William ~~Marks~~ Richards was not one of them? A-Yes sir.

6I9 Q-He was one of the twelve? A-Yes sir.

620 Q-Did you meet him there at Omaha? A-He was there. I saw him there

62I Q-When was Amasa Lyman appointed? A-I don't recollect. He was one of the twelve afterwards,but whether he was one of the twelve at the time they were at Omaha I could not say, There was twelve of them,and if in giving their names I have made ~~a~~ any mistake it was him. I don't know either whether I spoke of William Richards as one of them,but William Richards was one of them.

622 Q-In the old organization at Nauvoo, Illinois,was there not what they called stakes?

By Mr Kelley,-

"We object to that question for the reason that it is

incompetent,irrelevant and immeterial,and on the further ground that the testimony introduced here shows that there is and were such things provided for in the new organization or in the re-organized incorporation.

By Mr Southern,-

623 Q-Was there in the old organization at Nauvoo such a thing as "stakes"? A-Yes sir. Nauvoo was a stake,but there was a great many different districts,and I believe that Kirtland was once a stake also,-probably it was the first stake.

624 Q-Kirtland was a stake you say? A-I don't know,-I say probably it was,but I don't know that it was.

625 Q-What is a stake?

Counsel for the plaintiff objects to the question asked the qitness for the reasons and on the grounds that the same is incompetent,irrelevant and immeterial,and not cross examination,nor does it call for the best evidence.

626 Q-What was a stake? A-It was a land or country sir for the children of [illegible] of the Lord to dwell in,-it could be a city though as well.

627 Q-Then the re-organized church has stakes also? A-No sir,I do not think they have.

Re-direct examination by Mr Kelley,-

628 Q-Father Whitehead I want to ask you a question or two,Now in your cross examination you said you went to Council Bluffs, or Omaha I believe it was,-I will withdraw the Council Bluffs part of the question,-well you said you went to Omaha? A-Yes sir.

629 Q-And help pack the records of the church there? A-Yes sir.

630 Q-And that the twelve were there? A-Yes sir,there was a portion of them there,- They were not all there but there were some of them there,-but there was a lot of them there

631 Q-Well how many of the twelve of the old original church,as you understand it,ever went with the faction that went to Salt Lake Valley? A-I don't know I don't think. I know there was some of them never went. There was John A.Beach,he never went and William Smith didn't go. I don't recollect now who went and I cannot tell.

632 Q-What about Lyman White? A-No he did not go either. He was another one that did not go.

633 Q-Lyman White did not go either you say? A-No sir,-not that I know of. If he went I never heard anything about it.

634 Q-Now were all of the twelve that did go to Salt Lake Valley at Omaha at the time you were there? A-What is that?

635 Q-Were all of the twelve that did go with Brigham Young to Salt Lake there at Omaha when you went there? A-I don't think they were all there at one time.

636 Q-Now at the time you were there at Omaha did you understand that that church that was there was the original church,or an apostate church? A-Did I understand it to be the original church ,or what?

637 Q-Or the apostate church? A-I understood it to be an apostate church.

Counsel for the defendants objects to the question for the reasons and on the grounds that it is leading,and calling for an opinion of the witness.

638 Q-Well I will try and not make it leading,-I will withdraw that and ask you what the fact is about that being the original church or an apostate church,or what kind of a church it was if you know.

By Mr Southern,-

"That question is objected because it calls for an

opinion of the witness,and the witness has not been shown to be an expert in church matters".

By Mr Kelley,-

639 Q-You may state what kind of a church it was? A-What kind of a church it was?

640 Q-Yes sir. A-Well that would be hard to say. It wasn't the church it had been in Joseph's day.

641 Q-The question is whether you know whether that was the original church,or whether it was an apostate church,or the kind of a church it was? A-Well I think it was an apostate church for they did not carry out the true principles that were taught by Joseph the Martyr,and there was all manner of abomination committed ~~thxxxxx~~ among them there,and I should consider it was an apostate church,for they taught these abominations and practiced them openly.

642 Q-Was that the reason you retired from the church? A-It was. It was sir,because I could not stand that wickedness,and it was something Joseph never taught and was not taught in ~~hixxdayx~~ in the church in his day.

643 Q-Were those people at Omaha teaching and practicing a doctrine and practices similiar to the doctrine that had been taught and practiced at Nauvoo prior to 1844? A-Well I will tell you I don't know what they taught,but I will tell you that all the time I was at Nauvoo I never heard it discoursed,- I think they were given up to something else besides preaching there at Omaha from what I saw and heard while I was there.

644 Q-Were they practicing the same things that had been practiced in Nauvoo Illinois,prior to 1844 and during the life time of Joseph Smith? A-No sir,they were practicing quite the contrary.

645 Q-Now did you withdraw from the faith of the church as it was before 1844,or simply from yhe membership of the church as you saw it Omaha when you were there in'47? A-I withdrew from the church,-that church there,-on account of its wickedness. It was because they had become so dorrupt and wicked that I could not tolerate it,so I withdrew,but the original ~~church~~ faith I believed in it always,all the time through everything from the day I was baptized,and do yet. Now shall I tell you fully what I left them for?

646 Q-Well no,for that don't matter in this case. That is all Father Whitehead?

It being impossible to complete the taking of these depositions on this day,the further taking of the same is now hereupon,continued until to-morrow morning,the same being the 27th day of January,1892. at the hour of 9,30 o'clock,then and there to be continued at the place in that behalf first aforesaid.

Now on this 27th day of January 1892,at the hour of 9,30 o'clock in the forenoon,come the parties herein first aforesaid,and the further taking of the deposition herein is continued, pursuant to adjournment.-

James Whitehead,being re-called for re-direct examination,testified as follows,in response to questions asked by Mr Kelley,-

647 Q-Now Mr Whitehead I will ask you this morning the date when you first read,or got hold of the Doctrine and Covenants? A-When I first got it?

648 Q-Yes sir? A-I got it in England. It wad in 1838.

649 Q-You got it in 1838? A-Yes sir.

650 Q-In England? A-Yes sir,the time that the twelve were there,and before they returned back. I don't remember the date or the month,but it was in 1838 any way that I got it.

651 Q-Well I don't care about that,but in giving your testimony yesterday

you fixed the time at 1848? A-Well it was a mistake there for it was in '38 that I first saw it,at the time they were in England.

652 Q-Now in your testimony on cross examination yesterday,you stated that you,by direction of the administrator of Joseph Smith,turned over to the twelve,or some of the twelve,all of the church records? A-Yes sir.

653 Q-You did that by direction of the administrator of Joseph Smith? A-Yes sir,I turned over all the papers and records that I had but of course I did not have them all. I don't know anything at all about what the other men had,-I only know what I had myself and I turned them over.

654 Q-You say you don't know anything about what the other men had? A-No sir.

655 Q-Did you as the secretary of Joseph Smith,have the custody and the contorl of the records of the membership of the church? Did you have the charge and custody of that part of the church records? A-No sir.

656 Q-Who,if you know,was the person who had the charge and custody of that part of the church records? A-I think James Sloane was the man that had that. He had something to do with the records,and that was what he had I think.

657 Q-So the records you refer to as being the records you had charge of,were the records of Joseph Smith'f private office? A-Yes sir,and the records that belonged to the building of the temple and all that,and the records of deeds,I recorded them,or a great many of them,and I had the record in my office.

658 Q-Do you know Mr Whitehead,whether or not in the office of Joseph Smith,at the time you were his secretary,whether there was,-that is whether or not the original manuscripts of the Holy Scriptures were there? A-No sir they were not in his possession,-they were in the possession of his wife,Emma Smith.

659 Q-Was that also turned over to the administrator? A-No sir that was never turned over to the administrator. We did not turn it over to any one for it did not belong to the church. She never turned it over until she turned it over to the reorganized church to get it published.

660 Q-Now in your testimony yesterday you referred to the fact that the selection of Joseph Smith by his father as his successor in office,and of the confirmation of that selection. Now how much time elapsed from the time of his selection until the public announcement was made? A-Well it took place on Wednesday evening,and on the Sunday following after the sermon was delivered he made that declaration.

661 Q-What was the general talk among the members of the church there in Nauvoo,so far as you know,as to who was to be the sucessor of Joseph Smith after his death?

By Mr Southern-

"That is also objected to because it is hearsay testimony,and not applicable or pertinent to the issues in this case".

A-Why the general belief and impression was that it was to be Joseph Smith his son.

662 Q-What,if any action,did the twelve take with reference to that question?

By Mr Southern,-I object to the question on the ground that it is not responsive to the cross examination,but for the purpose of

allowing the fullest scope in the examination,it will not be objected to for that reason".
A-What was the question?

663 Q-I asked you what,if any,action the twelve took with reference to the question of the selection of young Joseph to succeed his father? A-What action the twelve took in their own quorom I do not know as I was not there as their clerk to see.

664 Q-What did they say,if anything outside of their own quorom?
A-Well I will tell what Brigham Young said to me,and different ones said the same thing at different times. Brigham Young said to me,-he said they had the church in winter quarters at Omaha at the conference at Kainesville.

665 Q-Well I don't care about anything,-I don't care anything about the conference at Kainsville or anything of that kind,-just state what he said to you?

By Mr Southern,-

"Well I object to the witnesss stating the conversation".

A-Is that what you want,-just what Brigham Young said to me?

By Mr Kelley,-

666 Q-Yes sir just go right ahead and tell all he said to you? A-Well Brigham Young said to me,-"I am not the leader of the church, nor the prophet of the church. We know who that is. it is Joseph the son of Joseph the martyr", I said"yes brother Brigham,that is the one,"and he said"it is".

By Mr Southern,-

"The defendants move to strike out the answer of the witness as the most flagrant of hearsay testimony,and irrelevant to any issue in this case".

By Mr Kelley,-

667 Q-Can you give the names of the parties who were present at the time that Joseph Smith selected his son as his successor?
A-Well I gave them yesterday as far as I knew.

668 Q-Well the question is withdrawn?

By Mr Southern,-

"I insist upon the names being given,and that question being answered. I don't remember that he gave the names in full,and I insist upon its being answered now that it is asked".

By Mr Kelley,-

669 Q-You spoke of Reynolds Cahoon,or Calhoun and said that he was present at the time of the ordination of Joseph Smith?
A-Yes sir.

670 Q-How do you spell that name? A-Cahoon I think. I think that was the way it was spelled.

671 Q-Now in your testimony yesterday you referred to the fact of this ordination,do you mean by that the ordination to priesthood, or simply a setting apart as his successor? A-He was ordained to the same position his father was in,to be the leader of the church,-the first elder of the church.

672 Q-Do you mean that he was ordained a high priest at that time,or simply as his fathers successor? A-He was ordained as his fathers successor.

By Mr Southern,-

"That is objected to as leading".

By Mr Kelley,-

673 Q-I guess the question is leading,and I will withdraw it. Now what do you mean by the term "ordination",do you mean ordination to the high priesthood,or an ordination simply of successorship?

Counsel for the defendants objects to the question asked the witness on the ground that it is leading.

674 Q-Whenxxaxxthatxauthorityxxasxcommence,xxxx If you do not mean that,what do you mean? A-A-I mean that he was ordained to the same position that his father was in,-to be his fathers successor and to hold xix xxxxrx the same position his father held thith all his power and authority,-whenever he was called.

675 Q-When was that authority to commence,-when was his authority to commence,-then or at the death of his father?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is immeterial to any of the issues in this case,and is leading.

A-He was to take his position when the Lord manifested to him on earth from Heaven that the time had come for him to take his position.

676 Q-Well that is all the questions I have to ask you.

Re-cross examination by Mr Southern,-

677 Q-Will you state what position in the church was held by Joseph Smith the Martyr,-I use the term"martyr"to identify him,so you may know to whom I refer? A-Yes sir that is right for he is a martyr.

678 Q-Well what position did he occupy in the church,-will you state the position which he held? A-What position Joseph the Martyr held?

679 Q-Yes sir? A-Well I think that is pretty generally known.

680 Q-That is so perhaps right here,but then the United States Circuit Judge may not know it,for he is the one who will have to decide these questions,and we want to get it in such shape that he will be able to do so? A-He was a prophet,seer and revelator to the Church of Jesus Christ of Latter Day Saints .

681 Q-Was he in the priesthood? xxxx

held?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent ,irrelevant,and immeterial and not proper re-cross examination,and asking for an opinion of the witness.

689 Q-Will you answer the question? Q-I answered that yesterday,and I don't believe there is any law that will compel me to answer these questions over and over again.

By Mr E.L. Kelley,-

690 Q-Well you can answer it again Father Whitehead,-just answer it again if you can? A-Well let him ask it again.

By Mr Southern,-

691 Q-I asked you to state if you know by what authority it was that Joseph the Martyr ordained,or attempted to ordain his son Joseph to execute the office which he held in the church, by what authority he attempted to ordain or delegate that power to his son? A-It was by a revelation from Heaven. Now that was his authority,and that is what I told you yesterday.

692 Q-Was the ordination to which you have just referred the usual form of ordination followed or practice in the church? A-I can't answer for I don't know anything more about it than that I have told you.

693 Q-Did you ever see the same kind of ordination practiced in the church? A-Only the one time that I have mentioned.

694 Q-By what authority did Hiram Smith do the annointing? A-By what authority?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent, irrelevant and immeterial,not cross examinatopn and calling for an opinion and conclusion of the witness.

695 Q-Yes sir,by what authority did Hiram Smith do the annointing? A-Well that is a queer question to ask me. I can't answer that question.

696 Q-Well it is a fundamental question however queeer it may seem to you,and I would like to have you answer it if you can? Do I understand you to say that you don't know by what authority Hiram Smith did that? A-I can't say. I don't know where Hiram Smith got his authority from,but his authority was all right.

697 Q-Is there any thing in any of the books that authorizes the use of oil in an ordination?

By Mr Kelley,-

"We object to that question,first,because it is incompetent,irrelevant and immeterial,and calls for an opinion of the witness,and in the second place,because it does not call for the best evidence of the fact sought to be proven, the books themselves being the best fact,and have already been offered in evidence or identified in such a manner as will enable the counsel questioning the witness to refer to them,and discover what the authority was if any,and I object on the further ground that it is improper re-cross-examination".

By Mr Southern-

698 Q-Is there any authority in any of the books authorizing the use of oil in an ordination? A-Yes sir.

699 Q-Where is it? A-All that I can refer to as any authority is in regard to Asron being annointed,and the oil ran down on the skirts of his garment we read.

700 Q-Was yhe word"king",used at any time during that ordination? Counsel for the plaintiff objects to the question asked

on the ground that it is incompetent,and immeterial,and not cross examination.
A-No sir,I don't recollect hearing the word"king" used at all If it was used I did not hear it.

701 Q-Did you hear about the year 1844,-'43or '44 of what was termed the "King Follett"sermon preached? A-There was a "King Follett sermon preached,but I don't recollect about the time of it.

By Mr Kelley,-

"That question is objected to,and the plaintiff moves to strike the answer ~~from the~~ out on the ground that it is immeterial and incompetent".

By Mr Southern,-

702 Q-Did you hear the sermon preached? A-Well now that is a strange question to ask me,-what I have heard. I believe I ought to be asked what I know,and not what I hear

By Mr E.L. Kelley,-

703 Q-He is just asking you if you heard that sermon preached,called the "King Follett"sermon? A-Well I did hear it preached.

By Mr Southern,-

704 Q-Did Joseph the Martry preach the plurality of the gods in that sermon,-did he teach that doctrine in that sermon,or did he not?

By Mr Kelley,-

We object to ~~the~~ that on the ground that it is incompetent and irrelevant,-it is immeterial and not cross-examination,and does not call for the best evidence That sermon is in print and counsel asking the question can get it and put it in evidence,and thereby show just what the sermon teaches,without asking this or any other witness as to his conclusions regarding what it teaches".

A-That semon was published.

By Mr Southern,-

705 Q-Answer the question please? A-What was the question?

706 Q-Did Joseph Smith in that sermon teach the doctrine of the plurality of the gods? A-He did not that I know of. If he did I did not hear it,but I was not there all the time he was preaching for I was called out for a time.

707 Q-In your examination in chief you stated that it was the general talk and impression there at Nauvoo that Joseph Smith,the son of Joseph the Martry,should be the successor of Joseph the Martyr? A-Yes sir that was generally understood and believed.

708 Q-Did you say that was the general understanding and belief? A-Yes sir I believe it was. I never heard any dissent from it at all. If there was any dissent I never heard it at all.

709 Q-Was that before or after the ordination of which you speake? A-Well that was after Joseph had made his declaration that he was his successor in ~~the~~ office.

710 Q-To whom did he make that declaration? A-Why to the people.

711 Q-To what part of the people? A-The people,-the congregation.

712 Q-How many were present at the time the declaration was made? A-I don't know how many were there,-there might be three thousand there,-there might have been more than that there, for we had big congregations in those days.

713 Q-Where were these people assembled? A-In Nauvoo at the east end of the temple lot there. There was a stand fixed there,and he preached there,and that was where he made the announcement to the congregation.

714 Q-Was that the time the vote was taken by raising the hand?

A-That was the time when the people sanctioned it,-that is the mass of the people sanctioned it.

715 Q-To what local church did those people belong who were there at that time,and sanctioned that ordination? A-To what,-I don't understand the question.

716 Q-I asked you to what particular church did the people belong who were there at that time and sanctioned that ordination or selection? A-They belonged to the latter Day Saints Church.

717' Q-At what place? A-At Nauvoo.

718 Q-Upon what ground did you state that it was the general belief and impression that Joseph Smith should be the successor of his father? A-On what grounds?

719 Q-Yes sir? A-I have told you that already,and I don't see why I am asked these questions over and over again.

720 Q-Well I would like for you to state again on what grounds you base the belief that young Joseph was selected to be the successor of his father? A-Well sir on the grounds because it was so directed ~~xxxxxxxxxx~~ by a revelation from Heaven. Now that was the ground and we all thought it was a good one,-we knew it was a good one.

721 Q-~~xxx~~ Upon what grounds do you sta e it was the general belief? A-That is the ground,-the people believed that this revelation had been given. The Saints knew it had been given,and that was sufficent for them.

722 Q-How did you know it? A-Why man there was,-there were scores talked to me about it,-there was a great many talked to me about it,-in fact they were in the office all the time talking about it.

723 Q-How many do you suppose talked to you about it? A-I couldn't tell you.

724 Q-Did you not say there were scores ? A-I did.

725 Q-You say there were scores talked to you about it? A-I do.

726 Q-Now you said,I believe that the twelve,or a large part of them were present when Joseph was ordained? A-I said before that there was two of them present.

727 Q-Which two of the twelve were present? AThat was John Taylor and Williard Richards.

728 Q-When did you say the appointment was made with reference to the date of the ordination? A-Where was it made?

729 Q-When was it made,-that is the question I asked you? A-Why it was made right there in Nauvoo in an upper room over Joseph's store.

730 Q-I said when? A-It was in the winter of '43 some time.

731 Q-What month? A-Well I could not say.

732 Q-Well how long before the ordination? A-He was ordained at the same time in that room where he was appointed.

733 Q-Then the ordination and appointment were made at the same time? A-Certainly,it was.

734 Q-When was the notice sent out to the people to assemble? A-Well now I did not have the business of sending out the notices, and I couldn't tell you the date.

735 Q-Who did have the business? A-What is that?

736 Q-Who did have the business of sending out this notice to the people to assemble? A-I suppose it was sent into the printing office and printed,and it was made known to the quoroms through the Presidents of the quoroms,and to the people through the President of the branches and in that way the people would know it.

737 Q-The ordination took place on Wednesday you say? A-Yes sir on Wednesday evening.

738 Q-And the people assembled on the next Sunday? A-Yes sir,on

Sunday afternoon. That is the congregation assembled at that time.

739 Q-That is the congrgation assembled the next Sunday afternoon? A-Yes sir but not in regard to that.

740 Q-How is that? A-I say they were not called together for that purpose. They were there for preaching.

741 Q-They were not called together you say for that purpose,but were there simply to hear the preaching? A-Yes sir it was the regular preaching time,and there was no call about it.They gathered to hear the preaching that way without a call

742 Q-Well at that meeting then the question of the ordination of Joseph was submitted? A-At that meeting it was declared by Joseph himself that it had took place,and that his son Joseph was his successor in the office and the people agreed to it

743 Q-How many fonts were built in the temple at Nauvoo for baptism? A-

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is irrelevant and immeterial,and not cross examination.

7% A-There was one in the temple.

744 Q-Was there any other anywhere there? A-There was one in the temple. There was none outside that I know of.

745 Q-Was there one out side the temple? A-There was one in the basement of the temple but it was never used.,for it was never completed.

746 Q-Of what was the one in the basement built?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immeterial and not cross examination A-What is that?

747 Q-Of what was that font in the basement built? A-It was built of stone,-hewed stone.

748 Q-Was there not a temporary font of wood built before that? A-Not when I was there,-that was done before I went there. Now I want to ask these legal gentlemen if I am bound to answer these legal question over again. I answered all these qiestions yesterday and I am not willing to ~~answer~~ do it again.

749 Q-Well sir we are through with you for the present.

.....

Sworn to me on the day last aforesaid,and subscribed in my presence this day 1892

.....

Notary Public.

Articles of incorporation

E.L. Kelley James Whitehead page 8.

47

Ms d 1160 Box 1 fd 3

Joseph Smith,of lawful age,being produced,sworn and examined on the part of the plaintiff,deposeth and sayeth,as follows,to wit,-

Direct examination by Mr Kelley,-

1 Q-Where do you live Mr Smith? A-I live at Lamoni,Decatur County, Iowa.

2 Q-How long have you lived there? A-Since the fall of '81.

3 Q-Where did you live prior to that time? A-I lived at Plano, Kendall County, Illinois.

4 Q- How long did you live at Plano,Illinois? A-Between fifteen and sixteen years,or from 1866 to 1881.,and prior to that I lived at Nauvoo,Illinois since about 1839 to 1866. I lived in Missour a while and in Ohio a while at first,but I was very young at that time.

5 Q-What relation are you or were you to Joseph Smith who was the first President of the Church of Jesus Christ of Latter Day Saints? A-I am his son.

6 Q-When were you born? A-I was born November 6th 1832.

7 Q-Where were you born? A-I was born at Kirtland,Ohio.

8 Q-What is your business at the present time Mr Smith? A-I am the President of the Re-organized Church of Jesus Christ of Latter Day Saints. I am its presiding elder,and am also engaged as the editor of thei publication called the Saints Herald.

9 Q-How long have you been the presiding elder over that church? A-Since April 6th 1860.

10 Q-I wish you would state to the reporter Mr Smith how the re-organization of the church of Jesus Christ of Latter Day Saints was effected,-how it came about,and by what parties it was effected? A-It began some where in the year 1851 as near as I understand it,by the ~~xxxxxxx~~ meeting together of persons who were or had been members of the church,but who refused to recognize the western authorities,by their convening themselves together and conferring in regard to the condition as they then existed. After they had done this they issued a call or kind of appeal to the scattered members of the ~~xxxx~~ church,and they met in conference in the year 1851,-no it was I think in 1852,-~~xxxxxx

15 Q-What did you say hexwas? A-He was President over the stake at Nauvoo,and over the high council of the stake. He was presiding officer over the stake and the high council there at Nauvoo.

16 Q-What is the fact with reference to that being the highest office in the church at that place? A-It is the highest occice in the local organization.

17 Q-What position Did Gurley hold in the old church? A-I do not know personally about that further than by general reputation. I don't know personal y as to that, for I was too young at the time to know much about these things.

18 Q-What kind of a meeting was this at Amboy at which you united with the church? A-It was a conference,-the yearly conference of the organization.

19 Q-It was the yearly conference? A-Yes sir the regular yearly conference of the organization .

20 Q-It was what is denominated the regular,or general conference? A-Yes sir A general annual conference.

21 Q-By what method were you chosen as the presiding officer of the church? A-By a motion and vote of the people there assembled. By a motion being made to that effect and put to a vote of the conference.

22 Q-How was that vote taken? A-It was taken on a motion properly made by some person,and properly seconded which was put to the meeting by the presiding officer,-I believe the vote was taken by a show of hands,and the vote was unanimous.

23 Q-Do you recollect who the presiding officer was at that conference? A-I believe it was Zenas Gurley,senior. That is my recollection now.

24 Q-Was Will Marks present? A-Yes sir,but I believe that Zenas Gurley,senior,was the presiding officer of that conference.

25 Q-What was that conference made up of,-what was it composed of? A-It was made up of persons who had been members of the old church principally,with a number that ha been baptized by means of their preaching.

26 Q-What is the fact about there being present there,-if you recollect it,-members from more states than Illinois? A-Yes sir there were persons there from other states than Illinois. There were members present from Wisconsin,and I think from Iowa,and from Illinois,and I am not sure about it,but there may have been members present from other states.

27 Q-Do you recollect how many were there,that were members of the church. In round numbers do you recollect how many were present at that conference,who were members of the church? A-Well there may have been present possibly one hundred and fifty people. There may have been more for the conference was held in a hall,and it is hard to say just how many were present,but I think there was at least that many.

28 Q-I wish you would state Mr Smith if you can,the number,and given names of the officers who were xxxxxx members and officers in the old original church,that were present at that conference? A-I think besides Elders Marks and Gurley,there were quite a number present who were members of the old church,but the number I could not state definitely. Now as we xxxxx speak of I remember that amongst the number that were present was Elder Isaac Sheen;Dwight Webster;Zenas Whitcomb,-I think it was Zenas,-the old gentleman,-Israel L. Rogers;Hiram P.Brown. I don't know that I can now call to mind any more,-in other words I do not know that I can now recall the number,but at the time I doubtless remembered and knew who xxxy were there that were members of the old original church.

29 Q-STate as nearly as you recollect the number of elders and high priests who were present,-the high priests and other officers of the old or original church,who prior to the year 1860 had united themselves with the re-organization of the church,or who havesince united with it? A-Well I could not tell you with reference to the number who had united themselves with the re-organization of the church prior to that time,and I could only make an estimate as to the number who have united themselves with it since that time.

30 Q-Well what is your estimate as to the number? A-Well as I said I could only approximate the number,but there must be some thousands of them. The majority part of the old ~~xxxxxx~~ body who were members of the old church have united themselves with the re-organization either on or before I860. I cannot say as to the period prior to I860,but since that time there has been a great many of them united with the church as it now exists. There is my uncle William Smith,and his three sis-ters,and the husband of the youngest of them,-Miliken,-and William Aldrich;John Gaylord;John C. Gaylord;Archibald Wilsey Asa Manchester and a great many others have united with the reorganized ~~united~~ church who were members of the old original church. How many of them there is in the aggregate I am unable to state.

31 Q-You remember the ones you have mentioned however? A-Yes sir,but that is not all by any means,-these are the ones that I remember at the present time. I might think of a great many more if I had time to think it over.

32 Q-What became of your father's family after his death? A-Do you mean of his immediate family?

33 Q-Yes sir and his brothers? A-My mother remained at Nauvoo until in the fall of I846,in September I think it was. At the time of the disturbance there we the removed north to Whitesides county,where we remained until February I847,and we the returned to Nauvoo and remained there. My fathers mother,-my grandmother,-went to Knoxville Illinois,and resided there for a while with her younger daughter. She remained there and at Nauvoo and Colchester with my family and her youngest daughter until she died about I855. My uncle removed first to Knoxville I think,and then to near Amboy,and from there to Pennyslyania,and finally settled some twenty odd years ago in Clayton Counyy,Iowa.,where he is living at the present time.

By Mr Southern,-

"All this testimony of the witness as to the move-ments of individuals is objected to as being immeterial, irrelevant and incompetent,and not responsive to any of the issues in this case".

By Mr Kelley,-

34 Q-State Mr Smith what members of your fathers family,or of your grand fathers family,if any,went to Utah,or became identified with what is known as the ~~Utah~~ Salt Lake Church?

By Mr Southern,-

"That question is objected to for the same reasons as are given in the objection to the answer of the witnes above objected to".

By Mr Southern,-

35 Q-You may answer the question? A-My fathers brother Hiram and Samuel both left families,and the family of Hiram,and a part of Samuel's ~~x~~ family went to the valley. Part of Hirams family did not remove immediately,but his oldest daughter went in I860 or '2.

36 Q-You mean to the Salt Lake Valley when you say "the Valley? A-Yes sir.

37 Q-Well what about the rest of the family? A-Well the three sisters of my father,-Cathering,Sophrina and Lucy did not leave Illinois at all.

38 Q-They did not go west? A-No sir they did not go west. They with their children remained in the state of Illinois,and Catherine is still living there but the other two are dead.

39 Q.-How many of your fathers brothers were alive at the time of his death? A-There was two of them living.

40 Q.-What were there names? A-Samuel and William. Samuel and William were living at the time of my fathers death, but Samuel died soon after father however.

41 Q.-What were their names? A-Samuel and William. How long after your fathers death was it when your fathers brother Samuel died? A-It was not long. Something like two months after father died Samuel died, but William is still living, or was up two a day or two ago.

42 Q.-Of what church is he a member now? A-He is a member of the re-organized church, and all the family united with the re-organized church excepting my grand mother, and she died in 1855. She died before I became connected with it.

43 Q.-Who went with you at the time you went to the Amboy conference? A- My mother.

44 Q.-Was she a member of the church? A-Yes sir, she was received at the time I was.

45 Q.-Was she a member of the original church? A-Yes sir.

46 Q.-Now this morning you spoke about becoming identified with the re-organization in '56? A-No sir that is a mistake. I said I became identified with it in '60. It came to my knowledge in '56 though by a visit to me by of two of the elders,-Samuel Gurley and E.C. Briggs.

47 Q.-I wish you would explain what you mean Mr Smith, when you say it came to your knowledge in '56? A-Well I had simply heard a rumor of the gathering of the people and the work of the re-organization before that time I heard of it at that time, or before that time, that is of the re-organization of the church, but at that time they brought a personal message to me, and asked me to come and join with the movement.

48 Q.-Who came to see you? A-Samuel Gurley and Edmund C. Briggs. This Samuel Gurley who came to see me was a son of Zenas Gurley whom I have already mentioned.

49 Q.-Now when you went to the Amboy conference, what was the first thing done there in which you were personally interested? A-I made application to be received upon my original membership, and it was so done upon motion and vote, and my mother was also similiarly received. A-In what way?

50 Q.-What was the first thing done at the Conference in which you were personally interested? A-I made application to be received upon my original membership, and it was so done upon motion and vote, and my mother was also similiarly received.

51 Q.-Received as members of the church? A-Yes sir, and our membership was acknowle ged at that time.

52 Q.-After you had become a member by vote of the conference, then what was done? A-I was by a vote of the body ordained to the Melchesiak priesthood,-or made a high priest, and was then chosen to preside over the priesthood and the church.

53 Q.-By what power were you chosen to preside? A-By a vote of the people.

54 Q.-How was that vote taken? A-Upon a motion properly put to the conference, and voted upon and declared carried. I think that vote was taken by the uplifted hands, in the same method as the former vote.

55 Q.-Was there any ordination at that conference,-of yourself? A-Yes sir.

56 Q.-Was there any ordination at that conference,-that is any ordination of yourself? A-Yes sir I was ordained.

57 Q.-By whom were you ordained? A-If my memory serves me right I was ordained by President Marks, Zenas Gurley, and W.W. Blair. They officiated at the ordination.

58 Q.-What position did President Marks hold at that time? A-I think he was a high priest,-I think he was acknowledged as an high priest.

59 Q.-What was his office in the original church? A-He was a high priest and at the time I was at Nauvoo he was President of the the stake,and also of the high council. At the time of my fathers death I mean.

60 Q.-I will ask you now Mr Smith whether or not at the time of the dis-organization of the old church,whether any branches,of that church remained intact,to your knowledge? A-From what time?

6I Q.-From the time of the dis-organization of the old church,up to I860 and '6I? A-I don't know of any personally,not having personal knowledge at the time. I know of two branches at least I should say,-one up in the northern part ofIllinois and the southern part of Wisconsin,and another at Jefferson-ville in Wayne County,presided over by Thomas p. Green. Mr Green presided over it and it was with most of its members received on presentation. Their branch was organized about I842.

62 Q.-I understand you to say Mr Smith tnat you were about twelve years of age when your father died? A- I would have been twelve years of age on the sixth of November,and he was killed on the 27th day of June.

63 Q.-I will ask you now if you remeber having been selected and class-ed by your father as his successor,prior to his death? A-I remember of having been called into his office,or into a room adjoining his office,and receiving the laying on of hands,and a prophetic blessing or setting apart,-whatever it may becalled,for I don't know the terms that were used.I remember that,and I also trmember that just before the departure for Carthage with a number of others,I was called into a room in the mansion house,and there again received the laying on of hands,and the blessing. I was also present at a meeting in the grove near the temple,and I remebr my father laying his hands on my head,and saying to the people that this was his successor,or was to be his successor. I remember some of the parties that were on the stand,-a few of them I remember, but I don'trremember all of them.

64 Q.-Name some of them? A-William Marks;George G. Adams;and I think Williard Richards,-but I am not sure as to that.

65 Q.-Are you acquainted with the faith anddoctrines of the old church, -the original church? A-I am as are laid down in the public records,and the books of the church.

66 Q.-And of the re-organized church? A-Yes sir.

67 Q.-You are? A-Yes sir. I am also acquainted with the doctrine that was preached when I was a boy,and was taught in the Sunday school.

68 Q.-You may state if you can Mr Smith what caused the disruption and disorganization of the church,at the time it was disrupted and dis-organized some time in the forties? State just the reason or cause of the disruption? A-So far as I comprehend it,it occured from the apparent assurpation of authority on the part of President Young and some of his compeers and the practice or private teaching of the doctrine,-if it can be called a doctrine,-of the plurality of wives,to which practice and teaching a great many took exception and refused to accede,-my mother and President Marks being among the number,and others that I remember. It was culminating or rather brewing for some time,but culminated as I understood it in thw winter of I846,when a great many of the members of the church refused to follow these teachings and withdrew.The

political troubles that occurred there at that time I do not remember much about as I was too young at the time to retain any very distinct recollection regarding them,and I may say about all I know is what I heard. They were driven out from the city,and scattered around,and a great many of them were scattered all throughout Iowa,and this western country, and a great many more went east and settled down in different places;and the principle cause of this disruption and scatter-ing of the church was due to the introduction of doctrines that were not in accordance with the published doctrines or faith of the church that the people had been taught or baptized into.

69 Q-I will ask you Mr Smith to examine page 709,volume3,of the Times and Seasons,which is marked exhibit "L",as identified by the witness Whitehead,and ask you to state to the reporter whether that contains an epitone of the faith of the old original church,and also of the re-organized church?

ByMr Southern,-

"I objectx to the testimony,because the witness has not shown his competency to speak as to what was the faith of the old original church,and because the book from which he is asked to read,has not been identified as a book containing the doctrine of the original church".

By Mr Kelley,-

70 Q-I will ask you Mr Smith,if the book"Exhibit L",which you now hold in yourhand,does contain an epitome of the faith of the original church? A-Yes sir it does.

71 Q-Will you read that to the reporter? Read to the reporter,beginning at the words"we believe",on page 709,and down to the words"after these things,on page 710,in volume 3? A-Itis as follows,-

"We believe in God the eternal Father,and in his Son Jesus Christ,and in the Holy Ghost.

We believe that men will be punished for their own sins,and not for Adams transgression.

We believe that through the atonement of Christ all mankind may be saved by obedience to the laws and ordinances of the gospel.

We believe that these ordinances are,1st,-Faith in the Lord Jesus Christ;2nd,-Repentence;3rd,baptism;xxx,by imersion for the remission of xxx sins;4th,laying onof hands for the gift of the Holy Ghost.

We believe that a man must be called of God by "prophesy",and and by laying on of the hands"by those who are in authority to preach the Gospel,and administer in the ordinances thereof

We believe in the same organization that existed in the primitive church,viz;-apostles,prophets,pastors,teachers,evangelists,etc.

We believe in the gift of tongues,prophesy,revelations, visions,healing,interpretation of tongues &c.

We believe the bible to be the word of God as far as it is translated correctly;we also believe the Book of Mormon to be the word of God.

We believe all that God has revealed,all that he does not reveal,and we believe that he will yet reveal many great and important things pertaining to the kingdom of God.

We believe in the literal gathering of Israal and in the restoration of the ten tribes. .That Zion shall bebuilt upon xx this continent. That Christ will reign personally upon the earth,and that the earth will be renewed and receive its paradise glory.

A-We claim the priveledge of worshipping Almighty God according to the dictates of our conscience,and allow all men the same priveledge,let them worship,how,where,or what they may.

We believe in being subject to kings,presidents,rulers,and magistrates,in obeying,honoring and sustaining the law. We believe in being h onest,true,chaste,benevolent,virtous, and in doing good to all men;indeed we may say that we follow the admonition of Paul"we believe all things,we hope all things," we have endured many things and hope to endure all things. If there is anything virtuous,lovely or of good report or praise worthy,we seek after these things.

72 Q-Whose name Mr Smith has,or is signed to the epitome of faith of the original church about which you have been testifying? A-My fathers name,Joseph Smith.

73 Q-I hand you now a pamphlet Mr Smith,marked "Exhibit M",and ask you if that is an authorized publication of the Re-organized Church of Jesus Christ of Latter Day Saints? A-Yes sir.

74 Q-It is an authorized publication of the ?re-organized church? A-It is.

75 Q-I will ask you if that contains the epitome of faith of the re-organized church? A-Yes sir it does.

76 Q-Will you point out the page on that pamphlet,-the page or pages on which that may be found,and read it to the reporter? A-It is found on pages sixteen and seventeen.

By Mr Southern,-

77 Q-What is the title of that pamphlet? A"The Re-organized Church of Jesus Christ of Latter Day Saints in succession from I830 to the present",and is entitled"faith and practices of the church from I830 to I844". Do you wish me to read it Colonel

77 Q-No sir I will not insist upon its being read at the present time if wexhave a copy, or if a copy is furnished us so we that we can cross examine on it.

By Mr Kelley,-

"Well we will see that you shall have a copy of it all for yourself Colonel. This copy is marked of course as a part of the records and you cannot haveit,but wexwill furnish you with a copy of it". It might be as well to have that go on the record though. The reporter may incorporate a copy of that in the record".

The epitome of faith above referred to as being found on pages I6 & I7 of Exhibit M,is in words and figures as follows,-to wit, It is entitled,-Faith and practices of the Re-organized Church of Jesus Christ of Latter Day Saints"

I,-Epitome of faith,-

We believe in God the eternal Father,and in His Son Jesus Chtist,and in the Holy Ghost. Matt 28,I9. I John I,3. St John II,26.

We believe that men will be punished for their own sins,and not for Adams transgression. Eccl I2;I4. Matt I6;27. I Cor 3:I3. Rev 20;I2;I3.

We believe that through the atonement of Christ all men will be saved by obedience to the laws and ordinances of the Gospel. I Cor I5;I3. 2 Tim I;I0. Rom 8; I-6.

We believe that these ordinances are,-

(Ist)Faith in God,and in the Lord Jesus Christ. Heb II;6. I Peter I,2I. I Tim 4;I0. John 3;I6'I8 36. Mark II;22. John I4,I.

(2nd)Repentance.Matt3;2,8,II. Luke I3,3. 24;47. Ezek I8;30. Mark I; 5.,I5. Acts 2;38. Rom2;4. 2 Cor 7;I0.

(3rd) Baptism.by imersion for the remission of sins. Matt3;I3, 5. Mark I;4,5, Luke3;3. John 3;5. Act s 2;38;22;I6;2;4I;8;I2 37;38. Mark I6;I6. Col 2;I2. Rom 6;4,5. John 3;23. Acts 8;38. 39.

(4th)Laying on of hands for the gift of the Holy Ghost. Deut 34;9.John 20;2I;22. Acts 8; I7;I9;96. I Tim 4;I4. Acts 9;I7. I Cor I2;3.

Acts 19;1;16.
(5th)We believe in the resurrection of the body;that the dead in Christ will rise first,and the rest of the dead will not live again until the thousand years are expired. Job 19;25,26' Dan 12;2. I Cor 15;42. I Thess 4;16 Rev20;6. Acts 17;31 Phil 3;21. John 11;24. Isa 26;19. Ps 17;16
(6th)We believe in the doctrine of the eternal Judgement, which provides that men shall be judged,rewarded or punished, according to the degree of good or evil they shall have done Rev 20;12. Ecc 5;17. Matt 16;27. 2 Cor 5;10. 2 Peter 2;14, 13,17.
We believed that a man must be called of God and ordain -ed by the laying on of hands of those who are in authority, to entitle him to preach the gospel,and administer in the ordinances thereof. Heb 5;1,5,6,8, Acts 1;24,25;14;23. John 15;16.
We believe in the same kind of organization that existsed in the primitive church,viz;,Apostles,prophets,Pastors,Teachers, Evangelists,etc. I Cor 12;18. Matt 10;1. Acts 6;4. Eph 4;11, 2;20; Titus 1;5.
We believe that in the bible is contained the word of God, so far as it is translated correctly. We believe that the canon of scripture is not full,but tha t God by his Spirit, will continue to reveal His word to man until the end of time Job 32;8. Heb 13;8. Prov 29;18. Amos 3;17.Jer 23;4 31;31 34. 33;6. Ps 85;10,11. Luke 17;26. Rev 14;6,7,19,10.
We believe in the powers and gifts of the everlasting gospel, viz;-the gift of faith,discerning of spirits,prophesy,revelation,healing,visions,tongues,and the interpretation of tongues wisdom,charity,brotherly lome,etc., I Cor 12;1-11; 14;26. John 14;24. Acts 2;3. Matt 28;19,20. Mark 16;16'
We believe that marriage is ordained of God;and that the law of God provides for but one companion in wedlock,for either man or woman,except in cases where the contract of marriage is bro ke n by death or transgression. Gen 2;18,21-24; 7;1,7, 13. Prov 5;15-21. Mal 2;14-15. Matt 19;4-6 I Cor 7;2. Heb13; 4. D. & C. 42;7;49;3.
We believe that the doctrines and of a plurality and a commun -ty of wives are heresies and are opposed to the law of God. Gen 4;19,23,24.;7;9 22;2.,in conncetions see Gal.,chapters 4 and 5. Gen 21;8-10. Mal 2;14,15. Matt 19;3. The Book of Mormon says,-"Wherefore my brethern hear me,and hearken to the word of the Lord;for there shall not be any man among you have save it be one wife,and concubines he shall have none, for I,the Lord God delighteth in the chastity of wo men. And whoredoms are an abomination before me saith the Lord of Hosts" Jacob 2;6,9.
We believe that in all matters of controversy upon the duty of man towards God,and reference to preparation and fitness for the world to come,the word of God should be decisive and the ends of dispute,and that when God directs,man should obey
We believe that the religion of Jesus Christ as taught in the New Testament scriptures,will,if its precepts are accepted and obeyed,make men and women better in the domestic circle; better citizens of town,county and state,and consequently better fitted for the change which cometh at death.
We believe that men should worship God in Spirit and in truth,and that such wor ship does not require a violation of the constitutional law of the land John 14;21-24. Doctrine and Covenants,sec 58,par 5.
We claim the priveledges of worshipping Almighty God according to the dictates of our conscience,allow all men the same priveledgex,let them worship how,where,and what they may.
Epitome of Faith and Doctrines.

78 Q-You may state Mr Smith whether or not the two epitomes of faith which you have read,-that of the original church, and that of the re-organized ~~xxxx~~ church,-are the same,and if they are not the same,state what the differences are in them,,and where in the differ if at all? A-They are mainly alike. There is some differences in regard to the language that is used,and in regard to the question of marriage,-this matter being stated more fully in our re-orgainized epitome, of faith,and in the enlargement of the texts cited,butthe principles are the same in both.

79 Q-What principles ,if any are there,in the original epitome of faith,-or the epitome of faith of the original church,that are not contained in the epitome of faith of the ~~x~~ re-organized church? A-I do not remember that there is any specific principle,except in regard as I stated before,-on the question of marriage,-the principle is the same,but it is enlarged in the epitome of faith of the re-organizedchurch,and specifically mentions the plurality of wives,which is not in the epitome of faith ~~of the reorganized church~~ in the original church. There is nothing said at all I believe in the original epitome of faith on th at matter".

By Mr Southern,-

"I wish to note an objection here. The introduction of that pam phlet is objected to because it has not traced any authority authorized to speak for the body of the people,which it purports to speak for,and bacause the time of its publication,and its author is not given,and forthe further reason that the pamphlet seems to have no responsible author".

By Mr Kelley,-

80 Q-I hand you now Mr Smith a book which has been identifed in connection with the evidence of Mr Whitehead,and which is marked Exhibit E,and ask you what that book is? A-It is the book of Doctrinexand Covenants. It was published in I835,and contains a lecture on faith of the doctrine and the commandments of God to the church,and the rules and regulations adopted by/ the church in I835.

8I Q-I will ask you to state what the doctrine of the original faith was with reference to marriage? A-It was monogamistic,-monogamy,-one man and one wife,-one man and one woman only to be united in wedlock.

82 Q-I will ask you to point out in the book you now hold in your hand,and which is marked exhibit E,the doctri es and rules of the church with reference to marriage? A-It occurs on page two hundred and fifty one,section one ~~xxxxxxxxxxx~~ hundred and one,according to this enumeration,and the subject/of the title is marriage.

83 Q-What does it say there? A-Well this section one hundred and one prescribes the forms that shall attend the marriage ceremony etc,the duties of the parents towards their children and of children to parents,etc.

84 Q-Is that the only place in the book where the question of marriag is dealt with? A-No sir,there are other parts of this book that refer to it.

85 Q-Well you may designate to the reporter the parts of the book of doctrine and covenants that deal with that question? A-All portions ~~xxxxxxxxxx~~ of it that refer in particular to ~~x~~ the question of marr iage?

86 Q-Yes sir,as they occur in that book which you hold in your hand marked exhibit E? In paragraph 7 of ~~xxixx~~ section I3 of this work there is a commandment to the church,and which is recognized by the church in reference to marriage.

87 Q-What page is that on? A-It is on page one hundred and t

oneand one hundred and twenty two,and on page one hundred and ninety two,paragaph threee,section sixty five,there is a declaration in reference to marriage,or the connection between husband and wife.

88 Q-Now I will ask you Mr Smith if the publications of the doctrine and covenants of the years I846-'52-'54-and '69,contained in the same statement with reference to marriage as that contain-ed in the book which you now hold in your hand,marked Exhibit E? A-Yes sir,and it is the same publication of the doctrine and covenants that is used in every faction of the church that I know anything about down to '65 contained it. They were published possibly in '64,and from that time on down it has been the same.

89 Q-Do they contain any other form of doctrine of marriage,than that now set out in Exhibit E which you now hold in your hand A-No sir.

90 Q-They do not? A-No sir.

91 Q-Is there any other form of marriage recognized or endorsed by the Reorganized church,other than what is set out in Exhibit E which you now hold in your hand? A-No sir.

The following is a true,correct and accurate copy of section IOI,on pabe 25I of Exhibit E,above referred to by the witness in his answer to question 82,to wit,-

Marriage

I According to the custom of all civilized nations,marriage is regulated by laws and ceremonies;therefore,we believe that all marriages in this church of Christ of LatterDay Saints,should be solemnized ina public meeting or feast,prepared for that purpose;and that the solemnization should be performed by a presiding high priest,high priest,bishop,elder or priest,now emen prohibiting those persons who are desirous to get marriedof being married by other authority. We believe that it is not right to prohibitany persons members of this churchfrom marrying out of the church,if it be their determination so to do,but such personswill be considered weak in the faith of our Lord and Saviour Jesus Christ.

2 Marriage should be celebrated with prayer and thanksgiving ;and at the solemnization;the persons to be married,standing together,the man on the right,and the woman on the left,shall be addressed,by the person officiating,as he shall be directed by the Holy Spirit;and if their be no legal objections; he shall say,calling each by their names "You both mutually agree to be each others companion,husbandand wife observing the legal rights belonging to this condition;that is,keeping yourselves wholly for each other,and from all others during your lives",and when thy shall have answered "yes",he shall pronounce them "husband and wife",inthe name of the Lord Jesus Christ,and by virtue of the laws of the country and authority vested in him;"may God add His blessings,and keep you to fulfill your covenants from henceforth,and forever, Amen.

3 The clerk of every church should keep a recordof all marriages solemnized in his branch.

4 All legal contracts of marriage made before a person is baptized into this church,should be held sacred and fulfilled. Inasmuch as this church of Christ had been reproached with the crime of fornication,and polygamy;we declare that we believe that one manshould have one wife;and one woman but one husband,except in case of death,when either is at liberty to marry again. It is not right to'persuade a womanto be baptized contrary to the will of her husband,neither is it lawful to influence her to leave her husband. All children are bound by law to obey their parents;and to influence them to embrace any religious faith,or be baptized,or leave their parents

without heir consent,is unlawful and unjust. We believe that xhu all persons who exercise control over their fellow beings and prevent them from embracing the truth,willhavn to answer for that sin.

The follow in a true correct and accurate copy of paragraph 7, section I3 to be found on pages I2I and I22 of Exhibit E, referred to by witness in his answer to question 86,to wit,- "And again I say untoyyou,thou shalt not kill;ut he that kill -eth shall die. Thou shalt not steal;and he that steab th and will not repent,shall be cast out. Thou shalt not lie; he that lieth and will not repent,shall be cast out. Thu shalt love thy wife with all t y heart,and shall cleave unto her,and none else;and he that looketh upon a woman to lust after her,shall deny the faith,and shall not have the Spirit, and if he repents not,he shall be cast out. Thou shalt not commit adultery,and he that committeth adultery andr epenteth not,shall be cast out;but he that has committed adultery,and repwnts with all his hear t,and forsaketh it,and doeth it no more,thou shalt forgive;but if he doeth it again he shall not be forgiven,but shall be cast out. Thou shaltnot speak evil of thy neighbor or do him any harm. Thou shknowest mylaws concerning these things are given in my scriptures;he that sinneth and repentath not shall be castout."

92 Q-I hand you now Mr Smith that has been identified by the the witness Whitehead,and marked Exhibit D,,and ask you what that book is? A-It is the Palmyra edition of the Book of Mormon published in I830.

93 Q-Is that the first edition of the Book of Mormon? A-It is.

94 Q-It is the first edition of the Book of Mormon that was published A-Yes sir.

95 Q-I will ask you if the original church endorsed that book as a book of doctrine? A-I so understand it.

96 Q-I will ask you if the re-organized church endorsed that book and recognizes that book as one of its standard authorities on the qurstion of doctrine? A-It does. Yes sir we do. We have had it printed several times'

97 Q-I will ask you to point out in exhibit D,Mr Smith,all the passages,or references there are in it to the question of marriage? A-I don't really know that I could do that wothout taking up toomuch time at the present,but I can give some of them.

98 Q-Well,give what you can of them? A -On page I27 of this work,- pages I29,-I should say pages I26 and 27,there is an express declaration in regard to xxxxxagxxx the question of having more wives than one. It declares that they are to be confined to one wife. That is found in the second chapter of Jacob,and is as follows,-"But the word of God burthens me because of your grosstr crimes. For,behold,thus saith the Lord; this people begin to wax in iniquity;they understand not the scrip -tures;for they seek to.excuse themselves in commiting whoredoms,because of the things which were written concerning David,and Solomon ~~and~~ his son. Behold David and Solomon truly had many wives and concubines,which thing was abomniable before me,saith the Lord; I have led this people forth out of the landx of Jerusalem,by the power of mine arm that I might raise up unto me a righteous xxxxxbranch from the fruit of the loins of Joseph. Wherefore,I,theLord God,will not suffer that this people shall do like unto them of old. Whereforemy brethern hear me,and hearken to the word of the Lord;for there shall not any man among you have,save it be one wife; and concubines,he shall have none;for,I,the Lord God,delightxx -eth in the chastity of women. And whoredoms is an abomination before me;thus saith the Lord of Hosts".

That is about all that it is necessary to quote,but there is more here in this same chap ter that bears on the same subject,but I think I have read enough to show that the practice of polygamy is expressly prohibited.
Now on page 558 in the book of Ether,so called,there is also a reference to the same matter,and also on page 128. The reference on page 128 is as follows,-"Behold,the Lamanites your brethern,whom ye hate,because of their filthiness,and cursings which hath come upon their skins,are more righteous than you;for they have not forgotten the commandments of the Lord,which was given unto our fathers,that they should have,save it were one wife;and concubines they should have none;and there should not be whoredoms committed among them; And now this commandment they observed to keep;wherefore,because of this observance in keeping this commandment,the Lord God will not destroy them,but will be merciful unto them;and one day they shall become a blessed people; Behold,their husbands love their wives,and their wives love their husbands,and their husbands and their wives love their children;and their unbelief and their hatred towards you,is because of the iniquity of their fathers".
On page 558,the reference is as follows,-"And Riplakish reigned in his stead, and it came to pass that Riplakish did not do that which was right in the sight of the Lord,for he did have many wives and concubines,and did lay that upon his mens shoulders which was grievous to be borne;yea,he did tax them with heavy taxes;and with the taxes did he build many spacious buildings".

99 Q-Now I will ask you Mr Smith whether it was not the duty of every member of the church at all times to obey the law in relation to marriage,as it is set forth in the books to which you have referred,as well as what relates to marriage in the bible,and that it was not the priveledge or within the power of any one to set any of the law aside at their own will?

By Mr Southern,-

"That question is objected to for the reason that it calls for an opinion and conclusion of the witness,and is most flagrantly leading".

By Mr Kelley,-

100 Q-State the facts about that Mr Smith? A-The facts are that every member of the church was under obligations to observe the marriage rules given in the books,-in the book of Mormon,in the book of commandments and covenants,and also as taught in the bible,as we understand it,and also to observe the law of the land in regard to it.

101 Q-I wish you would state from the book of Doctrine and Covenants the 1835 edition,that has been offered in evidence,and which is marked exhibit E,the authority for that,Mr Smith? A-I don't understand your question. I do not understand what you mean by "authority".

102 Q-I mean with reference to the church being obligated to observe these commandments and obligations,and the church ordinances on the question?,etc? A-The fifth paragraph of the book reads ths,-"And again,the elders,priests and t achers of this church,shall teach the principles of my gospel which are in the bible,and the book of Mormon,in the which is the fulness of the Gospel;and they shall observe the covenants and church articles,to do them,and these shall be their teachings, as they shall be directed by the Spirit;and the Spirit shall be given unto you by the prayer of faith,and if ye receive not the spirit ye shall not teach. And all this ye shall observe to do as I have commanded,concerning your teachings,until the fulness of my

by the Comforter,ye shall speak and prophesy as seemeth me Godd;for behold the Comforter knoweth allthings and beareth record of the Father and of the Son."

I03 Q-Where is that found? A-That is par4graph5 of Sec I3,and is found on page I2I.

I04 Q-Well what is the next? A-On page I23 in paragraph I6of the same section is found the following,-"Thou shalt take the things which thou hast received which have been ~~xxxxixxx~~ given unto thee in my Scriptures for law to be my law,to govern my church;and ~~xxxxxxxxx~~ he that doeth according to these things shall be saved,and he that doeth them not shall be damned,if he continues".

I05 Q-On that same subject Mr Smith is it the duty of members of the church to obey the laws. If so,you may cite and read to the reporter? A-Paragraph 8reads as follows,-"And your minds in times past have been darkened because of unbelief,and because you have treated lightly the things you have received,, vanity and unbelief hath brought the whole church under condemnation And this condemnation resteth upon the children of Zion,even all;and they shall remain under this condemnation until they repent and remember the ~~xxx~~ new covenant,even the bookof Mormon,and the former commandents which I have given them,not only to say,but to do according to that,which I have written, that they mat bring forth fruit meet for their Fathers kingdom,otherwise there remaineth a scourge and a judgement to be poured out upon the children of Zion;for shall the chilaren of the kingdom pollute my holy land? Verily.I say unto you nay".

I06 Q-You may now read to the reporter the provisions that refer to the priesthood,and how they are to be ordained etc,and by what authority? A-It is section 2 of the second part,paragraph I7,and is as follows,-"Every president of the high priesthood,or presiding elder,bishop,high councellor,and high priest,is to be ordained by the direction of a high council, or general conference".

I07 Q-You may turn to the same book,and cite to the reporter section 3 paragraph II of the same book? A-Of necessity there are presidents,or presiding officers,growing out of,or appointed of,or from among those who are ordained to the several offices in these two priesthoods, Of the Melchezedeck priesthood ,three presiding high priests,chosen by the body,appointed and ordained to that office,and upheld by the confidence,faith and prayer of the church,from a quorom of the presidency of the church, The twelve travelling counsellors are called to be the twleve apostles,or special witnessess of the name of Christ,in all the world;thus differing from other ~~xxxxxxxxx~~ offices in the church in the duties of their calling. And they form a quorom ~~xx~~ equal in authority to the three presidents,previously mentioned. The seventy are also called to preach the gospel,and be especial witnesses unto the Gentiles and in all the world. Thus differing from other offices in the church in the duties of their calling;And they form a quorom equal in authority to that of the twelve especial witnesses,or apostles just named. And every decision made by either of these quorums must be by the unanimous voice of the same;that is,every member in each quorom must be ~~xxxxx~~ agreed to its decisions in order to make their decisions of the same power or validity,one with the other". That is not the whole of the paragraph,but it is about all that bears on this subject I think.

I08 Q-Yes sir that is sufficient,-Now on the same ~~xxxxxxxxxx~~ question we offer section 5,paragraph 6 from the same exhibit Please read that to the reporter? A-"The President of the church,who is also the President of the Council,is appointed by revelation,and acknowledged in his administration by the vdice of the church;and it is according

to the dignity of his office,that he should preside over the high council of the church;and it is his priveledge to be assisted by two other presidents,appointed after the same manner that he,himself was appointed;and in case of the absence of the or both of those who are appointed to assist him ,he has power to preside over the council withoutan assistant;and in case that he himself is absent,,the other presidents have power to preside in his stead,both or either of them".

I 09 Q-I will also ask you to read paragraph 2 of section I4 of the same book? A-"But verily,verily,Isay unto you,that none else shall be appointed unto th s gift,except it be through him, for if it be taken from him he shall not have power,except to appoint another in his stead;and this shall be a law unto you,that ye receive not the teachings of any that shall come before you as revelations or commandments; and this I give unto you that you may nor be deceived,that you may know they a re not of me". For verily I say unto you,that he that is ordained ofme shall come in at the gate and be ordained as I have told you before,to teach those revelations which you have received,and shall receive through him I have appointed".

II0 Q-Now I will ask you Mr Smith if the sections and paragraphs tha t have been referred to by you in your testimony in Exhibit E are the same in the publication of the same book,-the book of Doctrine and Covenants,-published by the re-organized church,as they are in the I835 edition? A-They are the same in substance. That is the reading matter is the same,but the sections have been arranged differently,-that is most of them have.

III Q-Then I understand you to say the differwnces is in the numbering of the sect ions and paragraphs,,and not in the text,or in the reading matter? A-Yes sir. The sections are placed in different order,but there is no change in the text. They are referred to in this book(referring to the edition published by the reorganized church)andthe sections are referred to in the original publication,-the sections and paragraphs also are given,so that one can find any reference in one book by comparing it with the other.

By Mr Southern,-

"Defendant objects to all the extracts from Exhibit E,offered in evidence,-the same being from the book marked exhibit E,and entitled "Doctrine and Covenants",because the book has not been properly identified ,and because its authority over the bodywhich undertakes to present it in this case,has not been shown either by the book itself,orby any other competent testimony".

By Mr Kelley,-

II2 Q-I hand you now this book marked Exhibit N,and ask you to state to the reporter what it is? A-It is the church record belonging to the re-organizedchurch church,and containing the minutes of the first conferences held,and also the records of the different branches of the church. The records of membership etc,-conference minutes etc,-

II3 Q-I will ask you if that is the official of the church? A-Yes sir it is. So far as it has been held it is.

II4 Q-I will ask you to read from that book Mr Smith the declarations made by the general conference with reference to its belief? A-What is that you want?

II5 Q-I ask you to read from that book from the records of the general conference,what records there was there,if any,with reference to the belief of the re-organized church?

By Mr Southern,-

"Defendant objects to the introduction of the recotd known as Exhibit N,for the reason that it has not been identified as the official record of any matter pertaining to the right or duties of the plaintf in this case,and because the book itself does not purport to do so. ".

By Mr Kelley,-

II6 Q-You may proceed and answer the question? A-On page 3,resolution 6 is as follows,-"Resolved that we believe that the Church of Christ organized on the 6th day of April A.D. I830, exists as on that day,wherever six or more saints are organized according to the pattern in the book of doctrine and covenants". Resolution 6 says,-Resolved that the whole law of the Church of Jesus Christ is contained in the bible,book of Mormon,the book of doctrine and covenants,etc.";-Resolution 9 says,-Resolved that this conference believes it the duty of the elders of this church who have been legally ordained to cry repentance and remission of sins to this generation through obedience to the gospel as revealed in the record of the Jews,book of Mormon,and book of Doctrine and Covenants.and not to faint in the discharge of duty.".

II7 Q-Those are the resolutions? A-Yes sir.

II8 Q-I will ask you Mr Smith what book is referred to there asthe record of the Jews? A-The bible,-the old and the new testament.

II9 Q-That is what is referred to by the book of the Jews?

By Mr Southern,-

"That question is objected to because it is leading and calls for an opinion of the witness".

A-Yes sir,-the bible,-the old and new testament.

By Mr Kelley,-

I20 Q-I will now ask you Mr Smith,what if anything the re-organized church did in the general conference towards rendorsing the record you have just read? If anything was done towards endorsing you may state what it was? A-In I878,-

By Mr Southern,-Hold on until I get a little objection in there. That question is objected to on the ground that it is leading and manifestly does not ask for the best evidence. I object to it also on the ground that it isxirrelevant and immeterial to any issue raised by the pleadings in this case".

By M Kelley,-

I2I Q-I will first ask you if you were present at the first conference held in September I878,-the general conference of the church I mean?- A-I believe I was,

I22 Q-Do you remember what was done at that time? A-Well I don't know that I could remember specifically what was done. Idon't know that I could remember anything in reference to this record. I know there was something done in reference to the records of the church,and the standard books,but my recollection if it serves me right is to the effect that it was in the way of reaffirming something that had been done prior to that time,but I would not like to say from memory what was done.

I23 Q-Do you know what was done by the general conference of the church in I878 in relation to endorsing the books of doctrine of the church?

By Mr Southern,-

"That question is also objected to,because te answer called for is not and cannot be the best evidence of the fact sought to be proven. It has never been shown that the records have been lost,and if they are in existance they are the best evidence

of the facr sought to be proveh,and object to it on the furth -er ground that ~~it is~~ the question if answered would not be pertinent to any ofthe issues raised by the plaintiff in this case".

I24 Q-You may answer the question? A-I was present and knew of the action that was taken. I knew at the time what was being done and my memory serves me that there was something done in reference to endorsing the books, but what was done I really could not tell you from recollection.

I25 Q-Well for the purpose of refreshing your recollection,I hand you exhibit "M" and ask you to state what you know about that?

By Mr Southern,-

"Defendant objects to any use being made of Exhibit M as testimony in this case,for any purpose whatever,because it has not been shown to be authorized on behalf of the plaintiff,and it has not been shown to be a memorandum made by the witness,therefore it is incompetent,to be used as a means of refreshing the recollection of the witness ".

~~I26~~

By Mr Kelley,-

I26 Q-Now Mr Smith have you refreshed your recollection by reference this exhibit M? A-Yes sir.

I27 Q-And are you able to state what was done? A-Yes sir.

I28 Q-You know what was done? A-Yes sir,for I presided at that meeting and put the resolution when it was presented.

I29 Q-Well you may state what was done? A-The resolution was present -ed for recognizing the standard books of the church,-the scriptures,book of Mormon,book of doctrine and covenants.

By Mr Southern,-

"I move that the answer of the witness bestricken from the record for the reasons set forth in my objection to the question".

By Mr Kelley,-

I30 Q-I will ask you now if the books referred to in the action of that general conference,were the same books so far as the text is concerned,as the the book of Mormon now present here, and which is marked exhibit D,and the book of Doctrine and Covenants here marked exhibit E,and the book of Doctrine and Covenants marked J,the same being the 1880edition? A-No sir,-not altogether. Not in 1880,-they were not in the book of covenants we had at the time in 1878.

I31 Q-You do not understand the question,-were the books referred to in the action of that General Conference in 1878,the same as the book of Mormon which you now have here,-the book of Doctrine and Covenants of the edition of 1835,and the books of Doctrinr and Covenants published up to 1878? A-Yes sir.

I32 Q-I will hand you now Mr Smith a paper marked exhibit B,being the articles of Incorporation of the Re-organized Church of Jesus Christ of Latter Day Saints,of date June 6th 1891,in Iowa,and I will ask you if you were one of the incorporators? A-I was.

I33 Q-Iwill ask you if your name appears upon the articles of incorporation? A-Yes sir.

I34 Q-I will ask you if that is the articles of incorporation of the church from whose records you have been citing passages to the reporter during the taking of your deposition? A-Yes sir, it is.

By Mr Southern,-

"That question was objected to,but he answered it before I could get my objection in. It is objected to for the reason that oral testimony is not the best evidence of the facts sought to be elicited by the question,and the question calls for

an opinion of the witness".
By Mr Kelley,-

I35 Q-I will ask you if the church government as expressed in these articles of incorporation, is the church government of the church of which you are the President? A-Yes sir.

By Mr Southern,-

"I object to that question because it is claimed by the church, that in its published books are contained the doctrine of its church goverment, and they are the best evidence, therefore I object to the question as incompetent under the pleadings".

By Mr Kelley-

I36 Q-I will ask you now Mr Smith if the articles of church government as set out in the articles of incorporation, dated the 6th of June I89I, are the same as those set out in the three standard works to which you have referred during the taking of your deposition?

By Mr Southern,-

That is also objected to for the same reasons as are given in the objection to the last question asked the witness.

A-I so understand them.

By Mr Kelley,-

I37 Q-The records to which I refer being exhibits D, J and E? A-Yes sir,-that is the way I understand it.

I38 Q-I will ask you now Mr Smith if the order of church goverment as set out in the articles of Incorporation of the Re-organized Church, is the same as that set out in the King James translation of the bible which was identified in connection with the testimony of the witness Whitehead, as Exhibit C?

By Mr Southern,-

The defendant objects to that question for the same reasons as the last two questions to which objection was made were objected to".

By Mr Kelley,-

I39 Q-You may answer the question? A-So far as I know they are the same. I don't know of any difference.

I40 Q-I will ask you Mr Smith if you are acquainted with, and familiar with the practices and usages of the church in reference to the acceptance of revelations? A-I am.

I4I Q-I mean the acceptance by the church of revelations? A-Yes sir I am.

I42 Q-I wish you would state to the reporter what the usage is? I Will change that question so that it will not be objectionable to the Colonel If I can,-state what the usage was so far as you know in the original church, and what the usage is in the re-organized church with reference to accepting revelations by the church,-or what purports to be revelation?

By Mr Southern,-

Well I object to that question, and I object to it on the ground that the question is not pertinent to any of the usages in this case".

A-That which purports to be revelation is referred to the church for action to be taken on it by the church before it can be binding upon the body. It must be examined by the leading quoroms of the church, and be accepted by them before it can be presented to the body for its action, and upon their acceptance becomes binding upon the church.

By Mr Kelley,-

I43 Q.-I will ask you to explain Mr Smith just the routine or roadpr method that is followed,-Explain first,what you mean by the use of the term "quorom"? A-I mean certain organizations of the ministry,-as for instance the first Presidency.

I44 Q.-Please explain what you mean by that? A-Well I mean what I say, -The President of the church and his Council forms the first quorom.

I45 Q.-How many members is there in that? A-Three in full.

I46 Q.-State the next quorom? A-It is the quorom of the twelve,-composed of the twelve apostles. It is known as the twelve apos -tles,and contains the twelve apostles when it is full.

I47 Q.-What is the next quorom? A-It is the quorom known as"the seventy,and,and it may consist of seven quoroms of senty each when full. The matter of revelation is presented to each of these quoroms seperately,to be examined by them seperately,and when they have decided it is either accepted or rejected,and they may examine the matter seperately or con-jointly,and after they have passed on it,it is presented to the bodyaand acted upon by the body of the church.

I48 Q.-I will ask you to look at that book Mr Smith,which is marked exhibit"G",and state to the reporter whether or not it is an official publication of the original church? A-It is,-or was rather. It is the "Times & Seasons",published by the church at Nauvoo,Illinois.

By Mr Kelley,- "I will now offer in evidence from "Exhibit"O,page 423,t the following,Times and Seasons. City of Nauvoo.Thursday Febryary Ist,I844. Notice. As we have lately benn credibly informed that the elder of the Church of Christ of Latter Day Saints,by the name of Hiram Brown,has been preaching polygamy ,and other false and corrupt doctrines,in the County of Lapeer State of ~~Illinois~~ Michigan. This is to notify him and the church in general,that he has been cut off from the church for his iniquity;and he is further notified to appear at the special conference on the 6th of April next,to make asnswer to these charges.

Joseph Smith
Hyrum Smith.
Presidents of Sa'd Church.

By Mr Southern,-"That is objected to for the reason that no author -ity for the publication quoted from has been shownand no identification of the book has been shown or made,which makes its utterance authentic or evidence in this case". "I further move that the question just given be stricken from the testimony in this case,because it is not pertinent to any of the issues raised by the pleadings,and is not identified as an utterance authorized by the plaintiffs in this case,or any one whom it represents,ot who represented it,and for the further reason that it does not appear that the names signed thereto are the names of the authors of the publication or notice".

By Mr Kelley,-

I49 Q.-I will ask you Mr Smith if you were a member of the original church at the time that notice I have just read to the report -er was issued? A-I believe that I was.

I50 Q.-I will ask you if the book from which I have read,being the Times and Seasons,was held out by the original church as beinga church paper,and authorized by the church,and whether or not if up to I844 it was so recognized,-and whether or not it has been recognized since then as the,-or as a recognized publication of the church,-the Re-organized Church?

By Mr Southern-"That is objected for the reason that the witness is not competent to testify,and becam se the publication referred to has not been sufficiently identified".

By Mr Kelley,-

151 Q-I am not through with my question,-I asked you if the book from which I have just read,being the Times and Seasons,was held out by the original church as being a church paper,and author-ized by the church,and whether or not it up to 1844 was so regarded,and whether or not it has been recognized since then as a recognized publication of the church by the re-organized church?

By Mr Southern,-"That question is objected to because of the indef-initeness of the question,and because it calls for an opin-ion of the witness upon matters with which it has not been shown ku ux that hex is familiar,and because if the publica-tion referred to is an authoritive publication of the plain-tiff,or as one whom the plaintiff represents,or who represent-ed the plaintiff,there isn o evidence to show it".

By Mr Kelley,-

152 Q-Answer the question? A-It was the authorized publication of the church. It was understood to be so by me until the death of Joseph Smith and Hyrum Smith in 1844,and has been so regarded by us,and not by us alone,but by every body else who has ever had anything to do with the church. That is my understand-ing of it however,for I do not pretend to say what others may think of it.

By Mr Southern,-"Defendant moves to strike out the answer just given by the witness for the same reasons given in the object-inn to the question to which it is an answer,and because the answer is too baloonatic to he admitted in tjis or any other case"

By Mr Kelley,-

153 Q-I will ask you Mr Smith whether or not in all the discussions between the elders of your church,and those of other factions or churches,-between yourself and other factions of the same church or other churches,-whether or not the publication from which I read,being "Exhibit O",is not a recognized as the official publication at that time?

By Mr Southern,-Well I object to that question because any answer that may be given could not under any circumstances be perti-nent to the issues in this case".

A-The book has alwaya bben regarded as an official publica-tion and the authorized publication of the church up to the time of the death of Joseph and Hyrum Smith. It was always regarded as the current official and authorized organ of the church,up to that time,and is so regarded to day.

By Mr Southern-"The defendant moves to strike out the answer of the witness because of its indefiniteness with reference to who so regarded it".

By Mr Kelley,-

154 Q-Well I will ask you Mr Smith to state what the attitude of the church,-the original church,-was from the time of its organi-zation up to the time of the death of your father in 1844 toward the Government of the United States? State and cite from the rules of the church,-the official records of the church,and standard books that have been identified during the taking of these depositions,what that duty was?

By Mr Southern,-"Now I have an objection to that question,-In the first place it is objected to because it is in an involved form,and beyond the comprehension of the ordinary mind,-and secondly because it calls for a mass of reading,or an opinion of the witne s upon a mass

of reading,which it has not been shown the witness is competent to give an opinion on,or which it has not been shown that the witness has read,and in the third place the question is objected to for the reason that it refers to certain books and papers, which if they exist are the best evidence of the facts called for by the question,and in the next place the question is objected to because no responsive answer to the question asked could be pertinent to any of the issues in this case".

By Mr Shurtleff,Kelley,-

I55 Q-Let the record show that the party asking the question only asks for the reading of the passages referred to,from the books authorized by the church,as to what the attitude of the church was toward the Government of the United States?

A-The attitude of the church towards the government of the United States was that of loyalty and obedience as expressed in its records,and in its articles of faith and government. In connection with this answer I will read from Exhibit E, page one hundred and thirty seven,where occurs the following, -"Let no man think that he is a ruler,but let God rule him that judgeth according to the council of his own will;or in other words,him that counselleth,orsitteth upon the judgement seat. Let no man break the laws of the land,for he that keep -eth the laws of God,hath no need to break the laws of the land;wherefore,be subject to the powers that be,until he reigns,whose right is to reign,and subdues all enemies under his feet. Behold the laws which ye have received from my hand,are the laws of the church,and in this light shall we hold them forth. Behold,here is wisdom."

Again on page one hundred and twentyfive of the same book, paragraphs one and two,-I should say paragraphs twenty one, twenty two and twenty three of section thirteen Exhibit E, in evidence,as follows,-

Paragraph twebty one,-"Again every person that belongeth to this Church of Christ,shall observe to keep all the commandments and covenants of the church;And it shall come to pass that if any person shall kill,they shall be delivered up and dealt with according to the law of the land;For remember that he hath no forgiveness ;and it shall be proven according to the laws of the land".

Paragraph twenty two,-"And if any man or woman shall commit adultery,he or she shall be tried before two elders of the church,or more,and every word shall be established against him or her,by two witnesses of the church,and not of the enem -y. But if there are more than two witnesses it is better' but he or she shall be condemned by the mouth of two witnesses,and the elders shall lay the case before the church,and the church shall lift up their hands against him or her,that they may be dealt with according to the law of God. And if it can be,it is necessary that the bishop is present also.And thus ye shall do in all cases that shall come before you. And if a man or woman shall rob,he or she shall be delivered up to the law of the land. And if he or she shall steal,he or she shall be delivered up into the law of the land. And if he or she shall lie,he or she shall be delivered up unto the law of the land. If he or she shall do any manner of iniquity he or she shall be delivered up unto the law,even that of God".

Paragraph twenty three,-"And if thybrother or sister offend thee, thou shalt take him or her between him or her,and thee alone; and

if he or she confess thou shalt be reconciled. Anf if he or she confess not yhou shalt deliverxxxxxxxx him or her up unto the church,not the members,but to the elders, And it shall be done in a meeting and that not xxx before the world. And if thy brother orxx sister offend many,he or she shall be chastened before many, And x if he shall offend openly,he or she shall be rebuked openly,that he or she may be ashamed. And if he or she confess not,he or she shall be delivered up unto the law of God. If any one shall offend xin secret,he or she shall be rebuked in secret;that he or she may have opportunity to confess in secret to him or her whom he or she has offended,and to God,and that the church may not speak reproachfully of him or her. And thus ye shall conduct all things.

I56 Q-Is that all? A-No sir in the enactments of the church there is a declaration of the church in regard to the laws,and governments,all in general,especially as to goverbments. Shall I read it?

I57 Q-What is it did you say? A-It is a declaraytion of the attitude of the church in regard to governments?

I58 Q-Well we offer in evidence Mr Repoxxter,secion one hundred and two of ExhibitE,at pages 252,253 & 254,and ask that it be made a part of the record,-the whole of the section?

By Mr Southern,-"Before that goesi in we have an objection to the last answer of the witness,-Defendant moves the court to strike out the answer of the witness to the last question for the reasons assigned as objections to the question,and for the further reason that the answer to the question does not contain anything pertinent to the issues made by the' pleadings in this case".

Section one hundred and two obove offered,is in words and figures as follows,to wit,-

Section C I I.

Of Governments and laws in General,-

That our belief with regard to earthly xxxxxx governments and laws in general may not be misinterpreted nor misundersto -od,we have thought proper to pesent at the close of this volume,our opinion concerning the same".

I We believe that governments were instituted of God for the benefit of man,and that he holds men accountable for their acts in relation to them,either in making laws or administer -ing them,for the good and safety of society.

2 We believe that no government can exist in peace,except such laws are framed and held inviolate as will secure to each individual the free exercise of conscience,the right and control of property and the protection of life.

3 We believe that all governments necessarily require civil officers and magistrates to enforce the laws of the same,and that such as will administer the law in equity and justice should be sought for and upheld by the voice of the people, (if a Republic)or the will ofcthe Soverign.

4 We believe that religion is instituted of God,and that men are amenable to Him and Him only for the exercise of it,un- less the religious opinions prompts them to infringe upon the righrs and libexties of others;but we do not believe that human law has a right to xxxxxxxx interfere in prescribing rules of worship to bind the consciences of men,nor dictate forms for public or private devotion;that the civil magistrate should xxxxxx restrain crime but never control conscience;xx should punish guilt but never supress the freedom of the soul

5 We believe that all men are bound to sustain and uphold x the xrespective

governments in which they reside,while protected in their inherent and inaleinable rights by the laws of such governments,and that sedition and rebellion are unbecoming every citizen thus protected,and should be punished accordingly;and that all governments have a right to enact such laws intheir own judgements/ as best calculated to secure the public interest,at the same time however,holding sacred the freedom of conscience.

6 We belive that every man should be honored in his station, rulers and magistrates as such,-being placed for the protection of the innocent and the punishment of the guilty;and that to the laws all men owe respect and deference ,as without them peace and harmony would be supplanted by anarchy and terror;; human laws being instituted for the express purpose of regulating our interests as individuals and nations,between man and man,and divine laws given of heaven, prescribing rules on spiritual concerns,for faith and worship both to be answered by man to his Maker.

7 We believe that ruler,States and Governments have a right, and are bound to enact laws for the protection of all cirizens in the free exercise of their religious belief;but we do not believe that they have a right in justice,to deprive citizens of this priveledge,or prescribe them in their opinions,so long as a regard and reverence is shown to the laws,and such religious opinions do not justify sedition nor conspiracy.

8 We believe that the comission of crime should be punished according to the nature if the offense;that murder,treason, robbery,theft,and the breach of the general peace,in all respects should be punished according to their criminality and and their tendency to evil among men,by the laws of that government in which the offence is committed;and for the public peace and tranquility all men should step forward and use their ability in bringin offenders against godd laws to punishment.

9 We do not believe it just to mingle religious influence with civil government,whereby one religious society is foster -ed and another is prescribed in its spiritual priveledges, and the individual rights of its members as citenzs,denied.

IO We believe that all religious societies have a right to deal with their members for disorderly conduct according to the rules and regulations of such societies,provided that such dealings be for fellowship and good standing;but we do not believe that any religious society has authority to try men on the right of property or life,to take from them this worlds goods,or put them in jeopardy,either life or limb,nor neither to inflict any physical punishment upon them,-they can only excommunicate them from their society,and withdraw from their fellowship.

II We believe that men should appeal to the civil law for the redress of all wrongs and grievances,where personal abuse is inflicted,or the right of character or property infringed, where such laws exist as will protect the same;but we believe that all men are justified in defending themselves,their friends and property,and the Government,from the unlawful assaults and encroachments of all persons,in times of exigencies where immediate appeal cannot be made to the Laws,and relief afforded.

I2 We believe it just to preachthe gospel to the nations of the earth,and warn the righteous to save themselves from the corruption of the world;but we do not believe it right to interfere with bond servants,nor preach the gospel to,nor baptize them,contrary to the will and wish of their masters,or to meddle with or influence them in the lest to cause them to be dissatisfied with their situations in this life,thereby jeopardizing the lives of men;such interference we believe

to be unlawful and unjust,and dangerous to the peace of every Goverment allowing human beings to be held in servitude

Cross examination by Mr Southern,-

I59 Q-Mr Smith you have testified here with reference to the authority of a number of publications filed as exhibits? A-Yes sir.

I60 Q-A number of ~~ex~~ publications filed or offered as exhibits in this case,and amongst a number of others you have stated that the Book of Mormon is an authority in the church to which you belong? A-Yes sir.

I6I Q-That is the fact is it not? A-Yes sir,I so stated.

I62 Q-And that it was an authority in the church before it left Nauvoo, Illinois? A-Yes sir.

I63 Q-Now will you state whether or not you use the same edition of the Book of Mormon that the Nauvoo church did? A-Yes sir,we use the same edition,-that is the Palmyra edition of the Book of Mormon published in I830 if my memory serves me right as to the date of that edition,-and also one published by ourselves,-the re-organized church.

I64z Q-These are the editions you regard as authority? A-Yes sir.

I65 Q-What is the date of the edition published by yourslves,-that is the one that is published by the re-organized church? A-Well we began publishing it in I863 or '4,-if my memory serves me right that is the date,and the edition was issued either in Chicago or Cincinnati.

I66 Q-Is the subject matter in these editions the same? A-We understand it to be.

I67 Q-You say "we understand it to be? A-Yes sir,that is our understanding.

I68 Q-Well Mr Smith I am not asking you for your understanding,-I am asking you for your postive knowledge on that subject? A-Well my knowledge is that they are not identical in words,-that is they are not all identical as far as the words go. There was an edition got up in Nauvoo at one time and that edition is not exactly the same in words as the Palmyra editi-on,but the ~~same~~ substance and teaching is the same.

I69 Q-Well if you use any edition in your church different from these by authority of your church,state what edition it is?. A-Well we regard them all alike.

I70 Q-You regard them all alike? A-Yes sir. We use this one(referring to book in hand)because it is versified and is more easily handled on that account,but we have all of them and they are of equal authority with us,for there has been no specific change in any of them,-that is in any if the Books of Mormon, published by any one that I know anything about.

I7I Q-You have also testified Mr Smith that a book of doctrine and cov-enants is an authority in the reorganized church,and that the same book,or a book of the same name was an authority before the hegira from Nauvoo? Did you not testify to that? A-Yes sir.

I72 Q-Yes sir? A-That is what you testified to? Now I will ask you if there are different editions of that book? A-Yes sir.

I73 Q-What are those editions? A-All those that I have seen,-all I have seen that was used in the church at that time is the same as the edition of I835.

I74 Q-Where was that edition published? A-At Kirtland,Ohio,and there was the edition of I835 and I think '46 published at Nauvoo

Illinois.

I75 Q-Was the '45 and '46 edition published at Nauvoo? A-Yes sir the edition I have reference to was.

I76 Q-Is that all the editiobs you know anything about? A-No sir.

I77 Q-Well what other editions was there? A-The ditiobs published in Europe in,-the ones I have seen were published in I852 and '54,and one published by Albert Carrington in I869.

I78 Q-Are all these editiobs identically the same? A-They are in substance so far as I have had an opportunity to examine them. Some of them I have examined pretty thouro ghly,and some I have not,but to the best of my ~~knowledge~~ judgement they are practically the same.

I79 Q-Are there not what purports to be revelations in some of the later editions of the book called the "Book od Doctrine and Covenants",that are not in some of the prior editions? A-Yes sir.

I80 Q-That is the fact? A-Yes sir.

I8I Q-Then how can you call these bookd identi cally the same,-if they are of different editions and printed at different times and places,how is it that you can say they are identically the sam? A-So far as they have been published contemporaneously or purport to give the teachings of the church as it existed in the time prior to the death of my father and Hyrum Smith, and by the body of the church,and were publi shed in book form.

I82 Q-Now do I understand you rightly when I understand you to say that some of the later editions have subject matter in them that was not in the former editions? A-What is that. I don't believe I understand your question.

I83 Q-I asked you if I understood you correctly when I say I understood you to say,that some of the later editions of these works have subject matter in them that some of the former editions don't have? A-Yes sir.

I84 Q-I understood you correctly? A-Yes sir,I say so.

I85 Q-Then these books entitled books of doctrine and covenants,are not identically the same are they? A-They are not in that regard.

I86 Q-Now what editions of these books contain matter that was not in the old book first published in I845? A-The first one was published in I835,-

I87 Q-Well the first edition published in I835,I am obliged toy you for the correction,-what editions of these books contain matter that was not in the first edition published in I835 and the editions published subsequent there to in I845 and '46 ,-or both of the latter dates? A-Well I don't know that I can mention them specifically.

I88 Q-Well answer the question as nearly as you can? A-I think however that there was a revelation said to be given some t time in I834 that is not in the ~~editions~~ after editions.

I89 Q-That is not in the later editions? A-No sir,not in the later editions and in the edition that is published by us we have added what has been given us in the way of direction and commandment,or what has been recognized by the church since I844

I90 Q-About what prportion of that book is so composed? A-Not much.

I9I Q-Well about how much of it? A-Oh only a small portion,-a few pages.

I92 Q-Well about how many pages? A-I couldn't tell you how many,but about fifteen or twenty,-possibly twenty four.

I93 Q-Were these revelations,-These new reve ations which you speak of in the book which you now regard and here present as authoritive? A-Were they?

I94 Q.-I asked you if they were not in the book which you regard as,and present here,as being authoritive? A-Exhibit ~~X~~ "J" of doctrine and covenants. A-Yes sir.

I95 Q.-What book is that? A-Exhibit "J". The book of doctrine and covenants.

I96 Q.-What date is the publication of that edition? A-I882.

I97 Q.-The edition was published in I882"? A-Yes sir.

I98 Q.-Are all these that are there spoken of to be found in any other book? A-Well I don't know that they are? There may have been some other editions that they are in for we published a number of them.

I99 Q.-Now in what other editions were these changes to be found? A-I wouldn't like to say as to the dates.

200 Q.-Give you best opinion as to the time in which,or at which I should say,these other editions in which these changes are to be found,were published? A-Well I think not prior to I878, for there was then an authoritive declaration made by the church and authorizing the Board of publication to insert them in the book of doctrine and Covenants,and ordering them to be published.

201 Q.-Then did you testify that the re-organized church from the time ,-First I will ask you what time it was the church was re-organized? A-I852.

202 Q.-Then the church from I852 to I878 used the I845 and '46 edition of the Book of Doctrine & Covenants.as containing all the revelations? A-All of them that had been authoritively received by the church up to that time.

203 Q.-What is that? I do not understand A-That is all that had been authoritively received by the church up to that time.

204 Q.-Up to the time of the publication of the book? A-Yes sir,so far as I know.

205 Q.-Now then ~~when there~~ was there was new revelations given that were regarded as authoritive by the church after the publication of that book in I845? A-The re-organized church do you mean?

206 Q.-Yes sir? A-'6I and '65.

207 Q.-Was there a revelation given in I86I? A-Yes sir.

208 Q.-And another in I865? A-Yes sir in '65,and another in '63. They were in '6I,'63,'65,'73,'87 and '82.

209 Q.-At first the revelations were not comprised in the book of Doctrine and Covenants? A-No sir.

2I0 Q.-Why not? A-They were not published, that were until accepted and authorized by the church.

2II Q.-When was that done? A-I think all of them had been received up to I878 were ordered to be printed in the book.

2I2 Q.-Now were these revelations of which you speak as authoritive in the church,-as authoritive in the church,as any,to be found in the book of Doctrine and Covenants? A-After they were accepted by the church they became a rule to the church and authoritive and binding upon the church.

2I3 Q.-Were these revelations accepted by the church in the order in which you have given them,and at these times? A-They were acted upon,but were not ordered to be printed and accepted until later.

2I4 Q.-Were they accepted as authority by the church prior to their publication? A-Yes sir some of them were.

2I5 Q.-Were they accepted at the time of the revelations,or about that time? A-Yes sir.

2I6 Q.- ? A-Yes sir

that in the book of doctrine and covenants whichis now the rule of action in you church,and binding upon the church, there are rules and doctrines that were not to be found in the original book of doctrine and covenants? A-Yes sir.

218 Q-They are not to be found in the book of doctrine and covenants published in 1845 or 1846 to which reference has been made here? A-Yes sir.

219 Q-They are not to be found in these editions? A-No sir.

220 Q-They are not to be found in the book of 1832? A-1835 you mean I suppose?

221 Q-Yes sir,-they are not to be found in the edition of 1835? A-No sir.

222 Q-Nor are they to be found in any book published between 1835 and '45 or '46 that you know anything about? A-No sir,-none that I know anything about.

223 Q-Now will you please state the method that was followed in the re-organized church in the adoption of the book of doctrine and covenants? A-Yes sir. The methods which the ~~rule~~ required, is that they should be presented to the quorums as I have mentioned in my examination in chief to be acted upon by them,which is done,and they then present them to the body and they are accepted by them in conference.

224 Q-What is "the body in conference? A-It is the membership assembled in conference. It is the official membership recognized as exofficio conference members and delegates appointed by the different branches and districts of the church forming the conference.

225 Q-Who composed that official membership of the conference? A-Well if my memory serves me right it was the President of the church,the twelven,the high priests,the seventy and the elders. If my memory serves me right they were ex-officio members of the conference,and they attend it and they vote each for himself. They may be ex-officio delegates or not,or they may be lay ~~members~~ delegates,-or I should say lay members,-and cast the votes of their districts.

226 Q-How are the delegates selected? A-By the branches if they are isolated branches,and by the members of the districts at their district conferences.

227 Q-What are branches? A-They are church organizations,-or congregations I suppose they may be called.

228 Q-Local churches? A-Yes sir.

229 Q-What are districts? A-They are officially designated territories composed of two or more branches contiguous to each other.

230 Q-Who has ovr sight over the branches? ~~A-Those officers that may~~ A-In what way?

231 Q-Who has the over-sight over any given branch? A-Those officers that may be chosen by the branch in case there is an organization.

232 Q-Who has over-sight over the districts? A-One that may be appointed ~~temporarily~~ by the conference temporarily,but usually one may be selected by the membersof the district. He is called the District President,or presiding elder of the district as the case may be, but we usually say President of the District.

233 Q-And so these delegates of which you speak,are elected by the local churches or branches,each branch being entitled to how many delegates I would ask? A-Well if it was an insolated branch I don't know that I could give you the exact representation it would be entitled to,but if the number of members is over twenty it is entitled to a two

234 Q-How are the districts represented? A-They are represented by delegates chosen by their members at their district conferences.

235 Q-Now are the branches and distr cts the only organizations below the conferences? A-The what.

236 Q-The branches or districts? A-Yes sir.

237. Q-They are the only organizations below the conferences? ~~A~~Yzzxxxir A-The churches exist in the ~~zrxxxnixxxiixxx~~ branches and districts where they are organized,but branches may exist without a district organization.

238 Q-Well, what is the next highest order of government in the church? A-The general conference.

239 Q-The general conference is the next highest organization in the church? A-Yes sir.

I40 Q-Well what does it represent? A-The whole body of the church everywhere.

241 Q-That is composed or represents the whole body of the church everywhere? A-Yes sir.

242 Q-Does that mean the church in the United States,and all the other nations of the earth? A-Yes sir.

243 Q-It means the entire church? A-Certainly,it means the church wherever it may exist without reference to location,or what country it may be in. It means the entire church wherever it may exist,whether at home or abroad.

244 Q-And what constitutes a quorom to do business in the conference? A-The membership present and ex-officio delegates.

245 Q-What is the member of a quorom,-what does it take to constitute a quorom in point of numbers? A-There has never been any des-ignated number required to form a quorom.

247 Q-What I want to know is what part of the membership present it takes to constitue a quorom? A-There is no specific number designated,or understood to form a quorom, That is there is no sp cific number designated to form a quorom.

248 Q-Now how are the proceedings of these annual conferences that you have described kept? A-They are/kept by secretaries. I might say in explanation that they are kepr through the permanent secretary of the church being present with his assistants,and keeping a record of the proceedings of the conference. If he is not present then the proceedings are kept by persons selected temporarily to perform that duty,and report to the secretary.

248 Q-Well what are done with these prodeedings after they are taken? A-They are usually published to the church.

250 Q-Well what I want to know particularly is how they are published A-They are usually published to the church through the medium of the official publication or organ of the church;but the record itself is kept,-is kept by the secretary and recorder of the church in his office.

251 Q-Are they uniformly published? A-I believe so.

252 Q-Are they always uniformly published? A-I couldn't say,for I don't know.

253 Q-For how long then,do you know of your own knowledge of ~~hain~~ their having been regularly and ~~xxxxxxxxxx~~ uniformly published? A-They have been ever s ince my connection with the church.

245 Q-And when was it you became connected with the church? A-1860.

255 Q-And since that daye they have been published regularly?A-Yes sir

256 Q-Were they published prior to ~~xxxxxxxxxxxxxx~~ your connection wi th the church in 1860 at all? A-I don't know that the minutes of the conference held by the re-organized church were publ shed for the reason

that they had no organ until January I860 I think. I can't say that they were published prior to that date,for this reas -on.

257 Q-Who not had not any organ? A-The re-organized church hadn't.

258 Q-Prior to I860 you say the re-organized church had not any offi-cial organ? Is that what you mean to say? A-Yes sir,that is my understanding of it.

259 Q-Well I am talking about the church that esistsed in I845 or'6,-The church that existed from I832 to '33 '34 or'6? A-Well I couldn't say anything about that. I couldn't say anything about their minutes,only as I see them represented in the publixhed records or journals of the day.

260 Q-Then shall I understand you to testify that you have never seen the records of the conferencesheld from I832 to I845 or '46? A-Only as I have see them published in the journals of the day

261 Q-What are these journals? A-The Times and Seasons and the Millen -ial Star.

262 Q-Where was the Millenial Star published? A-It was publisked at Liverpool England.

263 Q-Well then you testified if I remember you correctly that you do you remember that you have ever seen any of the original official publications of the proceedings of the conferen-ces of the church,-I said from I832,-but I should have said from I830,for I believe that was about the time that the original church was organized,-down to I845 or I846? A-I have not seen them unless I have seen them in the current journals of the time.

264 Q-That is the only place you have seen them? A-Yes sir.

265 Q-You have not seen the written originals? A-No sir.

266 Q-Were these records of the proceedings of the conferences to which you have referred as having seen them in these publica-tions authenticated? A-Well I could not tell you.

267 Q-You do not know whether they were authentic or not? A-No sir,I could not say as to that,but I have no doubt but that they are authentic.

268 Q-Well you do not know that of your own knowledge? A-No sir.

269 Q-Do you know what became of these records of the church? A-I don't know personnaly. We have in our possession one of the minute books of the church it is the record of one of the first quoroms of the elders.

270 Q-How did you get that? A6That was a record that was kept by a man named Morton I think who died up in Michigan, and he sent it to us. He has died since it was sent to us.

271 Q-Is there any sect which claims to have those records of the min-utes of the conferences that were held from I830 down to I845 or I846? A-Any what.

272 Q-And sect or faction of the church which claims to have these re-cords? A-I could not say whether there is any that claims to have them or not.

273 Q-You don't know about that? A-No sir.

274 Q-Is there any other church of which you have any knowledge thatt claims to be the church,-the true church? A-In what espect.

275 Q-Any other faction or sect that claims to be the true church as it existsed in the days of Joseph Smith,other than the re-organized Church of Jesus Christ of Latter Day Saints,of which you are the President? A-At what time?

276 Q-My question is is therex any other sect that claims to be the true church,that practices the same doctrine and faith,and is guided and governed by the same rules and faith,as the church which existed under the name of the Church of Jesus Christ of

Latter Day Saints from ~~xp xm~~ I830 up to I845 or I846?
By Mr Kelley,-
277 Q-PUT it I844 Colonel?
By Mr Southern,-
278 Q-Well from I844,-I mean from I830 to '44 or '46 or whatever time it was the original church left Nauvoo,or were dispersed,-up to the time of the death of Joseph Smith say,-is any other sect or now existing any where that claims to be the same as the original church? A-I believe there is.
279 Q-And has such church existed all the time from I844 and I845 or '46,down to the present time? A-I think so,-yes sir.
280 Q-Does that church posses these records? A-I could not tell you that sir. I couldn't tell you that for I don't know.
28I Q-You could not say whether or not that church is posesseed of these records? A-No sir. I have never seen them,and no noth-ing a bout them.
282 Q-Are the minutes of the last general conference,held I believe in April I89I,of the Re-organized Church of Jesus Christ of Latter Day Saints,authoritive published? A-Yes sir,I believe they are.
283 Q-What makes the publication of a general conference authoritive? A-It is usually ordered to be published,and this last spring they were ordered to be published in a pamphlet as a supplement to the Herald.
284 Q-Were they so published? A-Yes sir.
285 Q-Are there any other official publications of the church,-the Re-organized church,-outside from the publication of the proceedings of the General Conference,and the official books of the church? A-Not unless it is the current journal.
286 Q-What is that? A-The Saints Herald,-there are no others unless the Saints Herald should be considered as authentic authorized' publication.
287 Q-Well now is the Herald an authentic authorized publication of the church? A-It was authorized to be.
288 Q-In what way? A-It was selected by the board of publication. It is maintained by the church and from time to time the official proceedings of the church are to be published in it.
289 Q-That is by whom? A-By the conference.
290 Q-What conference? A-The general Conference of the Church that used to be held twice a year,and now it is held once each successive year.
29I Q-How long ago was this publication authorized? A-At every conference I think from I859,-but I am not sure of that,-I am not sure as to that date;but I think it was January first I860 it was first published.
292 Q-Where was it first published and by whom? A-It was first published by Isaac Sheen at Cincinnati Ohio.
29 3 Q-How is the publication of that paper effected? A-Do you mean how is it accomplished?
294 Q-Yes sir? A-I t is published under the charge and control of a Board of Publication.
295 Q-Appointed by whom? A-By the church at its each annual meeting or sustained as the case may be,and then. They either sustain or retain the old Board of Publication or select as the case may be a number of persons to edit or manage it,and then in addition there is a mechanical department that sets the type, and men that make the copy and read the proofs,and persons who mail it after it is printed.
298 Q-Are all these persons selected by the conference? A-No sir.

they are not.

297 Q-What ones are selected? A-By the conference?

298 Q-Yes sir? A-Only the Board of Publication.

299 Q-They have charge of the publication? A-Yes sir,they are select -ed by the conference and have charge over everything connect -ed with the printing and publishing department,and they appoint all thex other employees,-that is the board of publi -cation appoints them.

300 Q-Does the paper have an editor? A-Yes sir,it has two of them.

301 Q-How were they appointed? A-By the Board of publication.

302 Q-Is everything that appears in the column of the paper authentic and binding upon the church? A-That part which bears the official signatures,-

303 Q-What signature? A-I do not know that I unders and you?

304 Q-What signatures are authoritive? A- The authorities who represent themselves,-for instance the bishopric when it sends out anything over its signature,that would be authentic as coming from them,or if the elders would do it,or each quorom would do it,it would be the same. Each of these would be authentic as coming from them,and the writers of each communication are responsible for their/own communication.

305 Q-Is everything that appears in that way authentic and binding upon the church? A-It is authentis ac coming from the source it purports to come from,but it is not binding upon the church until it has been acc pted by the church.

306 Q-Then if everything in this publication is not authentic,why you offer it without any exception as testimony in this case? A-I have not offered anything in it in testimony in thic case

307 Q-Do you say that the Herald has not been offered? A-I could not say for I have not been here all the time. It has not been offered while I was here, If it was offered while I was here,it has escaped my attention.

308 Q-Do you know the paper called the Times & Seasons? A-Yes sir.

309 Q-What is the character of that paper? A-That was a journal published in Nauvoo from 1839 to 1846 I think.

310 Q-How was it published? A-It was published in pamphlet form,and issued to subscribers.

311 Q-Have you anything further to say as to the character of the paper? A-Do you wish me to describe it?

312 Q-Yes sir,describe it and state what its character was? A-Well I don't know that I can describe it specifically. It partook of the nature,or rather the character of a church publication at the time it was published.

313 Q-Was it an official organ of the church? A-Undoubtedly.

314 Q-Of what church? A-The church organized in 1830. The church organized and existing at that time.

315 Q-It was never an official organ of the church of Latter Day Saints? A-No sir it was not issued by them,but it was accepted by them,and that is what it purports to be. That is what it purports to be however, although it was not issued by them

316 Q-You have had frequent opportunities of observing these volumes of the"Times and Seasons " produced here? A-Yes sir,and a part of them are from my own library.

317 Q-Are they complete? A-~~Yes sir~~. No sir.

318 Q-They are not complete? A-No sir, a part of them are missing.

319 Q-Which of them are complete? A-The first three volumes are complete. I don't know that there is anything missing from them
I being impossible to complete the taking of these depositions on this day,the further taking of the same was continued by the Notary Public until to-morrow the same being Thursday the 28th day of January 1892 at the hour of 9,30 o'clock in the fire-noon,the further taking of these depositions to be ~~xxk~~ continued then and there at the place in ~~xxxxxx~~ that behalf first aforesaid.
Now on this 28th day of January 1892,the same being Thursday and ~~bbing~~ the time to which the further taking of these depositions was continued on yesterday,at the hour of 9,30 o'clock in the forenoon come the parties hereto as aforesaid,and the further taking of the depositions herein was continued,pursuant to ~~xx~~ adjournment as aforesaid.
Joseph Smith resuming the witness stand,his further cross-examination was continued by Mr Southern,-
319 Q-Well will you state just wherein the exhibits of these volumes of the Times and Seasons we have before us,are not complete? A-Well the last three volumes I have not examined,and I don't know whether they are complete or not. If there is anything incomplete it is leaves that have dropped out by wear and time,or which have been accidently torn out,but as to that I couldn't say,for I haven't examined them to see how that is.
320 Q-Between what numbers are all these volumes of the Times and Seasons placed on exhibit here? A-Well I could not say positively,but I think from 1840 to '44. I think that is what it is but the whole number ran intil 1846 I think some time.
321 Q-Have you placed on exhibit any of the volumes after1844? A-I have not placed any ofthem.
322 Q-Have you identified any of the volumes after 1844? I don't think I have.
323 Q-Well have you any of the volumes after 1844 in your possession? A-Yes sir.
324 Q-Have you them here with you? A-I have not. Mr Kelley has all of them I brought here with me.
325 Q-He has all that were brought here? A-Yes sir.
326 Q-What volumes of the ~~xxx~~ Times and Seasons,and between what dates are they,that you regard as official? A-So far as the old church is concerned we regard all of them as official until the death of Joseph Smith in 1844,-on June 27th 1844 he was killed,and after that they were published by other parties, And we do not regard them as of any weight with us after that
327 Q-You say they were published by other parties? A-Yes sir.
328 Q-Other parties than whom? A-They were published by those that continued there at Nauvoo under the parties that took charge of the church after the death of Joseph Smith.
329 Q-Who were they? A-Brigham Young and others.
330 Q-Was the publication of the Times and Seasons begun under Joseph Smith? A-Yes sir. Under his Presidency of the church.
331 Q-And continued under his Presidency until he was killed? A-Yes sir
332 Q-And its publication was continued some years afterwards when the church was under these parties who succeeded him? A-Yes sir.
333 Q-What did his Presidency have to do with the publication of a news-paper? A-I don't know that it had anything to do with it,but part of the time he was the editor of the paper .
334 Q-I t was only apart of the time while ~~xxx xxxxx~~ he was living? A-Yes sir,-only a part iof the time.

335 Q-You mean to say that he was editor only a part of the time while he was living? A-Yes sir.

336 Q-Well who was editor when he was not? A-Ebenezer Robinson and Don Carlos Smith run the paper, and John Taylor a part of the time. They were all on the paper at one time or another.

337 Q- What part of the time did Robinson and Smith conduct the paper A-I could not tell you without examining the books.

338 Q-What time did Smith conduct it? A-I couldn't tell you without an examination of the volumes. I couldn't tell you the length of time.

339 Q-Which conducted it first,-Robinson or Taylor? A-Robinson and Smith I believe.

340 Q-Who conducted the paper after the death of Joseph Smith? A-I believe John Taylor was editor at the time.

341 Q-Was he the editor up to the date of the suspension of the paper A-Yes sir. I am not positive about that but I believe he was. That is my information but I cannot say that it is correct.

342 Q-Do you not know whether Taylor edited it up to the time of its suspension or not? A-No sir, I could't be sure about that

343 Q-When was the paper suspended? A-It was suspended when they left there some time in 1846 I believe.

344 Q-Can you state whether or not John Taylor was the editor of the paper before your fathers death? A-Yes sir, I think he was a part of the time.

345 Q-The John Taylor referred to by you is the John Taylor who went to Salt Lake? A-Yes sir.

346 Q-He went to Salt lake with the church at the time Brigham Young went? A-Yes sir, that is my understanding of it.

347 Q-Well, that is the fact is it not? A-I couldn't say,-that is what I was informed is the fact., but do not know it to be the fact for I was not with them at the time.

348 Q-He went to Salt Lake and afterwards occupied a high position in the church? A-Yes sir he was President of the church in Utah after the death of Brigham Young.

349 Q-He was President of the Utah Church? A-Yes sir.

350 Q-Well is this not the fact Mr Smith that the Times and Seasons at the beginning of its career, was an individual concern published by Ebenezer Robinson? A-Yes sir, I think it was published by Ebenezer Robinson and Don Carlos Smith in partnership.

351 Q-And is it not a fact that the paper was never published by the church at all? A-No sir, that is not the fact.

352 Q-Do you say the church ever published the publ cation known as the Times and Seasons? A-Yes sir, it was purchased by the church, and published by it. That is by the church after Robinson and Smith ceased publishing it. It was purchased from them by the church and run in the interest of the church, and by the church.

353 Q-Do you remember the date that that was purchase was made? A-I don't remember the date. I was too young to remember these things and I don't expect that I did not know anything about it at the time. I could not give you the date.

3 54 Q-Was the paper considered as an authority in the church prior to the time of the purchase from Robinson? A-I could not tell you whether it was or not?

3 55 Q-Well was it afterwards? A-Yes sir,

356 Q-And it was considered, you say, as an authority in the church up to the time of the death of Joseph Smith? A-Yes sir.

357 Q-When after the death of Joseph Smith was it not considered as

an autho ity? A-What is that. I did not understand the ques -tion.

358 Q-When after the death of Joseph Smith was the paper first considered to be an authority? A-Well now that I don't know. I presume that by them who published it it was considered as an authority, but it was never so regarded by us.

359 Q-You say it was "never so regarded by us". Now who do you mean by "by us? " A-The Re-organized church,-the members of the church who were members of the church before fathers death, and who did not take affiliation with the incoming authority.

360 Q-I don't know that I just understand that answer,-Will you please reply over again? A-I meant I said the members of the church who had been members of the church before fathers death, and who after his death did not affiliate with the authority that came in at that time.

361 Q-Was there a history of Joseph Smith, as written for himself,-I mean written by himself,-for publication? A-There was a history.

362 Q-Was it written ~~by~~ for the public? A-Yes sir.

363 Q-Was it ever published? A-Yes sir.

364 Q-Where was it published? A-It was begun in the Times & Seasons, and I am not sure but what it was in a paper published here

365 Q-At what date was that? A-I am not certain as to the date.

366 Q-Well about what date was it? A-I said I was not certain about that, but it must have been about 1833,-It began to be published again in the Times and Seasons very nearly at its start,-I don't remember what the date of the commencement of its publication was.

367 Q-Was the publication continued in the Times and Seasons after his death? A-Yes sir. After the death of my father?

368 Q-Yes sir,-after the death of Joseph Smith was the publication of that history continued in the Times and Seasons? A-Yes sir.

369 Q-That publication was a life of Joseph Smith as written by him -self, was it not? A-It purported to be.

370 Q-Is it accepted by the Re-organized Church of Latter Day Saints as correct? A-No sir, not that part of it that appeared after his death.

371 Q-Will you explain how exhibit M, here is an authorized publication of the Re-organized Church of Jesus Christ of Latter Day Saints? What makes it an authorized publication? A-An Authentic publication.

372 Q-Yes sir? A-It was published by the Board of Publication under its management.

373 Q-What is the Board of Publication? A-A body of men chosen by the church at its conferences to conduct, take control of and manage its publishing interests.

374 Q-Has this pamphlet, Exhibit M, ever been passed on by the General Conference? A-Yes sir.

375 Q-It has, not? A-No sir,-not as a pamphlet it was not.

376 Q-When was this document marked Exhibit M, printed? A-It was print -ed this winter

377 Q-About what date this winter was it printed? A-Oh I couldn't tell you the date exactly.

378 Q-Well about what month was it printed? A-Probably in the month of December.

379 Q-It was printed then? A-Yes sir, I believe that was the time that it was printed.

380 Q-That would be December 1891? A-Yes sir. I couldn't say as to the exact date, but it has been this winter though. It was this last December, which will be December 1891 that it was printed, but

I can't remember the exact date.

381 Q-Then it purports to have been published by the Board of Publica-tion. of the church? A-No sir.

382 Q-Has it any body's name to it as authority? A-No sir. It was published by the Board of Publication and so states.

383 Q-The Board of Publication of what? A-Of the Re-organized Church of Jesus Christ of Latter Day Saints,at Lamoni,Decatur County Iowa. It stated the facts on the last page.

384 Q-It was printed and published by the Re-organizedc,urch ofJesus Chri t of Latter Day Saints? A-It was published by theBoard of publication.

385 Q-It purports to have been published by the Re-organized church of Jesus Christ of Latter Day Saints at Lamoni,Decatur County, Iowa? A-Yes sir,but what a man does by his agent he does by himself,and the Board of Publication did this.

386 Q-Is it not a fact that what that Board does as the agent of the Church is the work of the church? A-Yes sir,until it is questioned and proved otherwise.

387 Q-Then if that is printed and published by that Board,do you regard it as authority,the same as if it had been endorsed by the church in its conferences? A-No sir.

388 Q-Why not? A-Because it is subject to inquiry. It is subject to inquiry by the church in conf rence assembled,to be either approved or diss-approved,upon its merits by the examination nby the body.

389 Q-Then you say this is an official publication of the church simply because it was printed by the Board of publ cation,and published under their authority? A-Yes sir.

390 Q-Mr Smith was not this publication printed and published since the institution of this suit? A-Yes sir.

391 Q-And was it not printed and published with a view to being used in this suit? A-In what way?

392 Q-In any way,-with a view I will say of being used in the taking of these depositions? A-No sir.

393 Q-You say it was not? A-No sir.

394 Q-For what purpose then was it printed and published? A-As a pamphlet for the iformation of our men in the field,or as a compiled statement of the position of the church for the information of the men in the x field and others,giving as it does a statement of the position of the church in succession. Now that it might be used in this suit was presumed,but at that time I knew nothing of the taking of these depositions here.

395 Q-Then it was not compiled to use in this suit? A-No sir,-of course as I stated before it was thought that it might be of use in this suit,but that was not the object of its compilation.

396 Q-Of whom is that Board of publication composed? A-Bishop E.L. Kelley is one,David Dancer is another,and William W Blair, James H. Peters ,and I believe Robert Minning of St Joseph is another.

397 Q-How do you know it was published by that board? A-Because I was there x in the office and helped compile it.

398 Q-Did you assist in compilingit? A-Yes sir. I helped also to xxx read the proofs.

399 Q-Then is it a fact that anything that is printed and published by that Board of Publication x is an authentic publication of the Re-organizedx Church of Jesus Christ of Latter Day Saints A-No sir.

400 Q-It is now? A-No sir.

401 Q-Well sir we print a good many things in the

publishing house that are the authentic declarations of other men and we publish them as such. We publish them for what they are,or purport to be,but it does not follow from that that they are the declarations of the church,or are binding upon the church. We just publish these things for what they purport to be,and nothing else.

402 Q-Where did you get the matter from that is found in this publication marked exhibit M? A-The matter that is quoted we obtained from the published and authorized works of the church,and other published documents.

403 Q-Then it was not original testimony at all? A-No sir it wasn't original matter,-not all of it.

404 Q-It is not original matter then? A-No sir not all of it,but some portions of it is original.

405 Q-You say some portions of it is original matter? A-Yes sir.

406 Q-Well what portiobs Of it is original matter? A-The connecting portions of it is original. The part that is used by the writers to connect it together is original with the writers whoever wrote it.

407 Q-Who are the writers of this connection portion? A-W.W. Blair, E. L. Kelley and Joseph Smith.

408 Q-At the time you were compiling this pamphlet,was it not the intention of it,-was it not the expectation of the compilers that it should and would be used in this trial? A-The expectation was that it might be used in this trial of the case,or rather that it might be used in this examination.

409 Q-You say that was the expectation? A-Yes sir.

410 Q-That it might be used in the trial of this case?A-That it might be used in this examination,-yes sir that was the expectation

411 Q-Is it not a fact that at the time of the compulation of this pamphlet you were fixing up testimony for this case? A-No sir ,that is not true.

412 Q-Will you answer my question? A-I think I have answered it. If I haven't I don't think it is possible for me to answer it.

413 Q-I asked you if it was not a fact that at the time of the compilation of this pamphlet you were fixing up testimony for this case,and you answer that it is not true? A-Yes sir,that is my answer.

414 Q-I did not ask you if it was or was not true,-I asked you if it is not a fact that at the time you compiled this pamphlet you were fixing up testimony for this trial of this case ,or at this examination? A-No sir that is not a fact.

415 Q-Then it is not a fact that at the time of the compilation of this pam- hlet you were fixing up a mass of facts to be used as testimony in this case? A-No sir.

By Mr E. L. Kelley,-"That pamphlet that you are making such a fuss about was not introduced in evidence by us. We did not need to introduce it,and have not done so."

By Mr Southern,-

416 Q-You did not introduce it is that what you say?

By Mr Kelley"Yes sir,that is just what we say".

By Mr Southern,-"Well if you did not,-would you go back on your own babies,and are you afraid to introduce it".

By Mr Kelley,-"No sir we did not introduce it. We did however introduce the two pages 16 and 17,and that is all that I introduced in addition to some paragraphs,sections and pages from thebook of

doctrine and covenants,and the Times and Seasons".

By Mr Southern,-

417 Q-I believe you stated yesterday that in all those revelations,or rather that in order that xhx revelations,should be recorded as authentic after being received they pass through the quoroms of the church? A-I said that was the rule to be obxserved in the presentation and acceptance of revelations to become authentic and binding upon the church,and be accepted by the body of the church.

418 Q-I will ask you if all these xxxxx quotations on pages 16 and 17 of this pamphlet marked Exhibit M,have passed through the various quoroms of the church? A-They have been adopted by the church.

419 Q-They have been adopted by the church? A-Yes sir.

420 Q-Well,but that is not thexquestion? A-What is the question?

421 Q-I asked you if they passed through,and have been ratified by these various quoroms of the church,as you have stated was the requirement? A-No sir. I did not state that.

422 Q-Well,then, what did you state? A-I did not state that things of that kind were required to pass through the ordeal. It was xx simply that which purported to be revelation that was to pass through that ordeal. Now a declaration of xxxxx doctrine and faith must necessarily pass thxxxxthrough such an ordeal, but they are all presented to the church,and accepted by the church before they are x received as authoritive.

423 Q-Presented to what church? A-The Re-organized church.

424 Q-When? A-I don't know that I can tell you the exact date from memory.

425 Q-Where? A-At Plano,Kendall County,Illinois.

426 Q-At about what time? A-I can't tell you the date exactly.

427 Q-Well about when x was it? A-I could not tell you the date.

428 Q-Has it been since you became connected with the church? A-Yes sir.

429 Q-Since you became connected with that church?,-what church do you have reference to? A-The Re-organized Church of Jesus Christ of Latter Day Saints.

430 Q-Was it before or after 1878? A-It was before '78.

431 Q-Is that as near it as you can state it? A-I couldn't give the exact date without referring to something to refresh my memory.

432 Q-Your answer is that these pages 16 and 17 which have been introduced in evidence here from exhibit M,were presented/to the church in the regular way and endorsed in such a way as to render them authoritive to and binding upon the church? A-No sir I do not say that. I say the subject matter on the 16th and 17th pages were presented and not the pages themselves. The pages themselves as they appear in this pamphlet was only compiled this winter.

433 Q-Do you mean by that all the subject matter on these pages? A-I mean the epitome of faith their presented.

434 Q-Do you mean that every statement in this epitome of faith was presented to and passed upon by the church and approved by the church? A-Yes sir.

435 Q-But you are unable to state when that was done? A-Yes sir,I am unable to state when without examining this record. I helped compile that epitome of faith myself,and was present when it was present and was with the body when it was adopted as the epitome of faith.

of faith.

436 Q-Did you include in this epitome what is said on page seventeen under the head of church record,history of action of the churches at Newark,Wisconsin? A-No sir.

437 Q-You did not include that? A-No sir we did not,for the reason that it is not a part of the epitome.

438 Q-Is what is stated there authoritive? A-I believe so.

439 Q-From what authority is that taken? A-From the church records.

440 Q-What church records? A-It is taken from the church records presented yesterday.

441 Q-What records? A-The minutes of the conference.

442 Q-And it is authentic? A-Yes sir,-What is taken from the church records is authentic,and the whole of it is taken from the church records.

443 Q- Then is this statement contained here true,-"Resolved that the whole law of the church of Jesus Christ is contained in the bible,book of Mormon,and the Book of Doctrine and Covenants" A-Yes sir. it was considered true at the time it was adopted by the conference.

444 Q-What time was that? A-I can't say.

445 Q-Well look at it and see if you can identify kt with reference to the time it was adopted? A-June 1852.

446 Q-That was in June 1852 ? A-Yes sir.

447 Q-Now is it not a fact that is as true at the present time as it was then? A-No sir.

448 Q-That is not a fact? A-No sir.

449 Q-Why not? A-Simply because of the fact that there has been additions to the church rules since that time. There has been additions to the rules of the church since that time.

450 Q-Now do you state here positive ly as a fact,-a positive fact,-that there has been additions to the rules of the church since 1852? A-Yes sir.

451 Q-You state that as a positive fact? A-Yes sir.

452 Q-Additions authorized by the church? A-Yes sir.

453 Q-Authorized by the church at its general conference? A-Yes sir.

454 Q-And by its various quoroms? A-Yes sir.

455 Q-Do I properly understand you as saying that all revelations to be authentic and of binding force upon the church must be pre-sented to the quoroms and approved by them? A-No sir.

456 Q-You do not? A- No sir.

457 Q-Well what did you sat about that? A-I said that before a revela-tion,or that which purports to be a revelation,could be accepted as binding upon the church,it must be submitted to the ordeal.

458 Q-Can a revelation according to the doctrine held by your church, become a law of the church until it is submitted to the quoroms,and endorsed by them? A-It cannot become a law and be binding as a law,but it may be accepted by the members and acted upon subject to inquiry and explanation.

459 Q-Is it not a fact that thw endorsement of revelation by the quoroms makes it no more a revelation? A-No sir,it makes it binding upon the church,but it may be a revelation without such acceptance.

460 Q-Was that the doctrine of the church prior to the death of Joseph Smith in 1844? A-I so understand it.

461 Q-Were there any revelations given,and published by Joseph Smith your father as such,that he submitted to the quorom? A-I could not tell you.

462 Q-Was the revelation on which,-as stated by Mr Whitehead,and I believe yourself,-you were ordained,submitted to the test of the quroms? A-I don!t know that it was.

463 Q-You do not know whether that revelation was submitted to the test of the quoroms? A-No sir,I don't know whether it was or not.

464 Q-Well, do you claim that it was? A-I do not.

465 Q-You do not claim that it was submitted to the quoroms? A-No sir I do not.

466 Q-You do not make any such a claim? A-No sir,and so far as I am concerned I do not make the statement that there was any such a revelation given. So far as I am concerned I did not,and have not made any such a statement

467 Q-Do you state there was no such a revelation given? A-No sir.

468 Q-Well what is your position or statement in connection with that revelation,-if there was a revelation? A-My statement is that I did not know any thing whatever about it. I don't know whether there was one given or not.

469 Q-Is it the law of the church that if there was such a revelation given and it was submitted to the quoroms that it is not valid? A-What is the question?

470 Q-I asked you if it was the law of the church that if there was such a revelation given and it had not been submitted to the quoroms,would it be valid? A-I couldn't say as to that.

471 Q-Could you have been properly ordained under the laws of the re-organized church to the office which you now occupy,without a revelation to that effect from your father? A-Yes sir

472 Q-Do you say you could? A-Yes sir

473 Q-Then I understand you to say that under the laws of the re-organ-ized church you could be properly ordained and qualified and put in possesssion of the office which you now hold in the church without a revealation to that effect from your father? A-Yes sir,you understand what I say correctly.

474 Q-If your father received such a revelation were you ordained under that revelation? A-I couldn't say. I would not like to as to that for I have already said I did not know there was such a revelation.

475 Q-Well then were you ordained legally and effectually according by the laws of your church to the highest office in your church without reference to any revelation from your father? A-I understand that the ordination was legally according to the rules of the church,and that was all that was necessary.

476 Q-I believe you stated that you were ordained at Amboy? A-Yes sir it was at Amboy.

477 Q-At Amboy,Illinois? A-Yes sir.

478 Q-Was your ordination at Amboy,Illinois, made without reference to the alleged revelation to your father? A-I could not say as to that.

479 Q-If it was not made upon the authority of the revelation,I would ask upon what authority it was made? A-Upon the authority of the understanding of the law that they had of it.,and from the fact that they all regarded it as a fact that there had been such a revelation,but personally I know nothing whatever about it. Now that is the way it is,for personally I did not know whether there was or was not such a revelation.I know that there was such an appointment,or understanding,but by virtue,-

480 Q-Can a President or high priest according to the laws of the

re-organized church,be lawfully ordained without a revelation A-As a rule there must be some manifestation in regard to it individually,before he can be ordained to any office in the Melchesideck(???)priest-hood.

481 Q-Is it a law that such a revelation before it can be xxxx enforced must be accepted by the quorom? A-No sir.

482 Q-Then what does it r equire? A-Acceptance by the body.

483 Q-What body? A-It must be accepted,-I should say acted upon and accepted by the body before which it comes,-either a branch, district conference,or gen ral conference.

484 Q-That is the modus operandi to be followed or pursued before a revelation of that character can be effective? A-Yes sir.

485 Q-Now then do I understand you to say that a reve lation may be authentic without being before the branches,-without being submitted to the quoroms? A-It is owing to the nature of the revelation. Let me explain,for instance,-a man may be called and ordained in the body or branch. In a congregational organization he may rise and speak what he considers is the voice of the Spirit,and be ordained by reason of this manifestation,without the matter being submitted to the different quoroms,but if itxxxx is a matter to be presented to the body;and to become a rule of action for the general body it must be presented in that way;but in rising in a general xxxx local.congregation on any emergency it must be acted on immediately by the voice of the people there assembled.

486 Q-Will you state where the law of the church to that effect is to be found? A-I don't know that I could.

487 Q-Can you state where it is to be found? A-I do not know that I can.

488 Q-Is it in the Book of Mormon? A-Precedents are in the Book of Mormon.

489 Q-State where in the Book of Mormon it is to be found? A-Well you are asking for a specific instance,-a specific law is what you are asking for,and I told you I did not know where I could find it ot whether it can be found.

490 Q-Is it in the Book of doctrine and covenants that has been identified here? A-Yes sir.

491 Q-Point it out? A-The principle is undoubtedly there,-I don't that the exact law is there.

492 Q-Is it in any of the authorized publications of the church? A- Yes sir,it is in the authorized publications of the church

493 Q-Answer me this question,-is it in any of the authorized publica-tions of the church prior to 1852? A-I th ink so.

494 Q-If so,will you please state where?xx xx A-I don't know that I can give you the exact location of it.

495 Q-Is what I am now going to read to you the law of the church with xxxxxxxxxxx respect to revelations,-"There is a xxxx way by whi h all revelations purporting to be from God to any man can be tested",etc.down to the words"brother Joseph said let no revelation go to the people until it has been tested"? What do you say to that? A-That in itself is not a lawof the church,-it is a statement of one Orson Hyde in reference to the matter.

496 Q-In reference to that matter? A-In reference to what was the rule of the church.

497 Q-Do you say that is not the law of the church? A-Not as it is contained there

498 Q-Well what x is it? A-It is the statement of one Orson Hyde as to what was the rule,and he belonged to the Utah church.

499 Q-Well is the statement a correct one? A-I believe it to be .

500 Q-Is it a statement that is equally applicable and equally authentic in the Utah Church? A-I couldn't tell you that.

501 Q-What is it,-what is the publication known as the Millennial Star? A-It is a publication published in England by,-at present by the body of people in the valley. I don't know whether it is being published now or not.

502 Q-What do you mean"by the"body of the people in the Valley"? A-In the Salt Lake Valley I should say.

503 Q-That is in Utah? A-Yes sir.

504 Q-Now you say in your epitome of faith here,-or rather it is stated in your epitome of faith here,-"We believe in the same kind of organization that existed in the primitive church,to wit,-apostles,prophets,pastors,teachers,evangelists,etc? A-Yes sir.

505 Q-Now is that a law of the re organized church? A-Yes sir,that is a statement of their belief.

506 Q-I wish you would hand me the exhibit,-I don't know what it is marked,but I believe it is that old book marked"Exhibit N", (how where did this book marked Exhibit N come from here to this place? A-It came from Lamoni,Iowa.

507 Q-It was brought down from there to this place? A-Yes sir.

508 Q-How did it get to Lamoni? A-It was brought there from Plano, Kendall County,Illinois.

509 Q-Who brought it there? A-The same member of the church. It was the Secretary of the Church.

510 Q-Who was the Secretary of the Church? A-Henry A. Stebbins is and was the Secrerary.

511 Q-From what dates does this book purport to contain the records A-I think from about June 1852 down to some time in the seven-ties. I don't know exactly what the year is.

512 Q-Does it contain the records of the conferences held between these dates? A-Yes sir. I think it does. I know it contains some of them but I don't know positively that it contains all of them'

513 Q-Does it contain the records of other meetings besides conference meetings? A-I could not say.

514 Q-Was the man,Stebbins,to whom you refer in charge of it? A-All the time.

515 Q-Yes sir? A No sir.

516 Q-Who was in charge of it before he took charge of it? A- A man by the name of Isaac Sheen.

517 Q-Where is he now? A-He is now dead.

518 Q-Was any body else in charge of it during that time? A-Not to my knowledge.

519 Q-You say Mr Stebbins brought it from Plano? A-Yes sir.

520 Q-How do you know he brought it from Plano? A-Well I really don't know for I did not see him bring it,but he was Secretary of the church,and had charge of the books.

521 Q-Did you ever see the book there in his possession? A-Yes sir.

522 Q-And this is the same book that you saw there in his possession? A-Yes sir

523 Q-In what custody is this book at Lamoni, Iowa? A-When it is there it is in the custody of the Secretary in his office,

524 Q-What secretary? A-The secretary of the church,Henry A. Stebbins

525 Q-Of what church is he the secretary? A-He is the secretary of the re-organized church.

526 Q-Who brought the book here? A-I did.

527 Q-You did? A-Yes sir.

528 Q-At whose request did you bring it here? A-At the request of Elder Kelley,-the bishop,-the.package of books was made up at his request,and I brought it with me.

529 Q-You have I believe placed in evidence from that book certain portions,amongst w hich are a number of resolutions purporting to have been passed by the conference at Newark,Wisconsin in June 1852,one of which is as follows, "Resolved that we believe that the Church of Jesus Christ organized on the 6th day of April A.D. 1830 exists as on that day wherever six or more Saints are organized according to the pattern in the Book of Doctribe and Covenants? A-Yes sir.

530 Q-Do you recognize what I have just read as being introduced in testimony yesterday do you not? A-Yes sir.

531 Q-And it was introduced from this book was it not? A-Yes sir I recognize that. It was read from this book yesterday.

532 Q-Can you tell me what was the name of the church concerning which the quotation I have just read was made? A-I don't know that I apprehend the question correctly colonel?

533 Q-Reference is made in this quotation to the name of a church, or rather to a church organized on the 6th day of April,and my question is do you know the name of the church at that time to which reference is made? A-Yes sir.

534 Q-You know the name of the church referred to in this quotation? A-Yes sir.

535 Q-What was the name of the church? A-The church of Jesus Christ

536 Q-Now are you sure of that? A-No sir.

537 Q-You are not sure of that? A-I wasn't there at the time.I don't know only by the general appelation that was given it.

538 Q-Well is that the general appelation? A-It has been called the "Church of Christ",the "Church of Jesus Christ",and the "Church of Jesus Christ of Latter Day Saints".

539 Q-Now what was the real and technical name of that church from the day of its organization in 1830 down to 1844? A-Well from my own knowledge I could not tell.

540 Q-You can't tell what that name was from memory or from your own knowledge? A-No sir.

541 Q-Well what was the historical appelation accepted by your church? A-The church of Jesus Christ,and the words "Latter Day Saints "is added as discritive.

542 Q-Now was the word "Jesus",in the parent church in 1830? Was it not added after that time? A-I say that I cannot state as to that of my own knowledge.A-All that I know I get from my reading the books of the church,and the records,or whatever they might be.

543 Q-Have you the first edition of the book of covenants within reach A-I.presume so.

544 Q-Please get thexfirst edition of the Book of covenants? A-Here it is. It is exhibit E.

545 Q-Will you please read the title page of that book? A-I could not do it for the reason there is no title page. It has been lost apparently.

546 Q-There is no title page there? A-No sir. I would like to read it for you if I could.

547 Q-Will you please read the heading on page five of that book(exhib -it E)? A"Theology. Lecture first on the doctrine of the Church of the Latter Day Saints. Of faith.

548 Q-The words"Jesus Christ" are not there? A-No sir.

549 Q-They do not appear there at all? A-No sir,not in that heading

550 Q-Are you familiar with this book entitled Exhibit E? A-Yes sir
551 Q-You say you are familiar with this book? A-Yes sir,reasonably so,I cannot say that I am thouroughly familiar with it,but I am safe in saying ~~in~~ I am reasonably familiar with it.
552 Q-Have you read it? A-Yes sir.
553 Q-Did you ever see in that book the words"Church of Jesus Christ"? Did you ever see these words in that book?A-I could not say from memory whether I did or not.
554 Q-Well what is your best recollection as to that? A-I reall y coo-ld not say whether I ever did or not.,-I cannot say from recol-lection as to that.
555 Q-You notice the fifth resolution I believe in this book entitled Exhibit N? A-Yes sir.
556 Q-In the resolutions of what conference is that? A-It is in the record of the conference of June 1852,-June 12th I believe 1852.
557 Q-Now then Mr Smith if the quotation in Exhibit M,of resolution five in exhibit N,on page three,reads,"Churchof Jesus Christ" th word "Jesus" is an interpolation is it not? A-No sir. It is in the body of the resolution offered at the time and pass-ed by the people .
558 Q-Well you probably don't understand my question, In the resolu-tion to which we have just referred that was put in testimony yesterday the word"Jesus",is not contained. It is there the "Church of Christ" Now if in this epitome,-if the word "Jesus is in there as a quotation from that resolution,it is an inter-polation is it not? A-I believe so,but it is not in the epitome however,-it is in that quotation from the resolution.
559 Q-Well I say if it is in the epitome,-? A-But it isnot in the epitome. It is in fact properly quoted from that record.
560 Q-Yes sir it is contained in what is called the epitome of the doctrine? A-No sir.
561 Q-Then if it is in exhib t M entitled"Faith and practices of the Church from 1830 to 1844"as a quotation from the record of the ~~xxxxxx~~ conference at Newark in 1852,it is an interpola-tion? A-If the words that are in this printed document don't occur in the resolution they are necessarily an interpolation
562 Q-Well that is what I thought. Now is it n ot a fact Mr Smith that if the 1835 edition of the Book of Doctrine and Covenants , marked Exhibit E,in section two,the church is denominated the "church of Christ" ,that it is not properly named in said section? A-I could not say as to that.
563 Q-You could not say as to that? A-No sir.
564 Q-Well then would y u say that it is properly designated? A-I would say this colonel,that if it be the same body,it is imme-terial as to what specified name be given it by writers writing about it or by documents in reference to it.It may be called the "Church of Christ",the"Church of Jesus Christ", the "Church of Christ Jesus",or the "Church of Latter Day Saints",or the"Church of Jesus Christ of Latter Day Saints", or what the denominated title of the church was at the time, and whatever the title of the church has been since that time is immeterial. I do not know what the title of the church was before I became connected with it,Only from the information I can gather about it by reading and otherwise,but what the title of the church has been since my connection with it I am prepared to testify about.
565 Q-Are you prepared to testify that if the name of the church at

the time of your fathers Presidency had been the Methodist church and your church was called or designated as it is that it would make no difference? A-I can't see that it would if the churches were the same. The name has very little to do with it if the doctrines,rules and practices of the church are the same.

566 Q-Are you prepared to say that the purport would be the same if the name in the original church had been the Methodist church A-No sir I am not prepsred to say xxxx as to what might have been the distinctive title of it prior to my connection with it,except as I get it from my history.

567 Q-Well,what are we trying to settle here,is what was the name of the church from 1830 to 1834 Particularly? A-Particularly?

568 Q-Yes sir,-what was the particular,specific name of the original church during that period? A-I cannot say.

569 Q-That is something you are not prepared to testify about? A-I can testify in a manner of curse,but I am not prepared to testify of my own knowledge for I do not know anything about it from actual personal knowledge and experience,but only as I gather it from history.

570 Q-Well as the history xx on these matters is quite voluminous,let me inquire of you if you have read that history? A-Yes sir to some extent.

571 Q-To what extent have you read it? A-I have read it partially.

572 Q-Let me enquire of you further whether from 1830 to 1834 the church was not uniformly styled the"Church of Christ"? A-The history as I read it says that it was called the Church of Latter Day Saints",in the histories that I have read refer-ring to the question or matter of name. I don't know that it was given specificially in all the cases as the name, but the reference to the title or name of the church appears in all these forms.

573 Q-Are you sure that such was the case prior to 1834? A-No sir,I know it only as I get it from history.

574 Q-Are you sure that history so states it? A-Yes sir. Well now I will qualify that by saying that that is my remembrance of having so read it. That is the only means of knowledge I have. Of course I was there at the time,but it was only as a child and of course I don't recollect how that was,but that is my recollection of my reading upon the subject. Of course as a cild I could not remember or be expected to remember what the distinctive title or name of the church was at that time, so from my personal actual knowledge and observation I could not tell you what the name was.

575 Q-Have you read the Boo k of Mormon? A-Yes sir.

576 Q-Is there any statement in it indicating that there was a dispute over what the name of the church should be? A-Yes sir.

577 Q-There is a statement of that nature? A-Yes sir,I think so.

578 Q-And was that question settled? A-I think not.

579 Q-And it is not so stated as settled in the book of Mormon is it? A-I do not know. I do not so understand it.

580 Q-Well would you recognize this that I am now going to read from Exhibit D on page five hundred and seven as an authoritive statement of the matters therein contained. It is as follows ,-"And they which were baptized were called the Church of Christ" I will go on and read further from the following paragraph,-"And it came to pass that as the deciples of Jesus were journeying,and were preaching the things which they had both heard and seen,and were baptizing in the name of Jesus it came to pass that the deciples were

gathered together,and were united in nightly prayer and fasting. And Jesus again showed himself unto them for they were praying unto the Father in his name;and Jesus came and stood in the midst of them and saith unto them,what will ye that I shall give unto you? And they saith unto him,Lord we will that thou wouldst tell us the name whereby we shall call this church;for there are disputations among the people concerning this matter. And the Lord said unto them,Verily,verily I say unto you,why is it that the people should murmur and dispute about this thing?hath they not read the Scriptures which you must take upon you the name of Christ,which is my name,for this name ye shall be called at the last day; and who so taketh upon him my name,and endureth to the end,the same shall be saved at the last day;therefore whatever ye shall do ,ye shall do in my name;therefore ye shall call the church in my name,and ye shall call upon the Father in my name that he shall bless the church for my sake;and how be it my church save it be called in my name".

Now that is what was found on page five hundred and seven,and on page five hundred and fourteen of the same book Exhibit D,there is the following,-"And it came to pass that the thirtieth and fourth year passed away,and also the thirty and fifth,and behold the deciples of Jesus had formed a church of Christ in all the lands round about", and on page five hundred and sixteen the following,-"And from that time forth they did have their goods and their substances no more common among them,and they began to divide into classes,and the began to build up churches unto themselves,to get gain,and began to deny the true church of Christ".

Still further down on the same page appears the following,-"and again there was another church,which denied the Christ, and they did persecute the true church of Christ because of their humility and their belief in Christ. Now the question was do you recognize that as authoritive teaching from the Book of Mormon? A-I do.

581 Q-You recognize that as the authoritive teachings of the book of Mormon? A-I do so far as it is read.

582 Q-Is there any other name than"the Church of Christ"given in the book of Mormon? A-The same author,-the same individual,said my name is Jesus Christ specifically.

583 Q-How is that? A-The same individual whose language you have read said"my name is Jesus Christ",and in the bible it is so recognized that that is his name. That is the name in which his deciples are to do everything they do.-the name of Jesus Christ,and if you will read the whole book. It called,-I should say if you will read the whole book through you will find that those quotations are only partial for it is called the"Church of Christ" precisely the same way that it is called in this resolution.

584 Q-Is there any other official declaration of the church any where, after the publication of this declaration in the Book of Mormon,other than that there specified? A-I could not tell you.

585 Q-Is there any church any where in the book of Mormon referred to and called the Church of latter day saints? A-How is that question.

586 Q-Is there any church any where referred to in the Bookof Mormon and which is called the "Church of Latter Day Saints? I don't know of any.

Q-You don't know of any? A-No sir.

588 Q-Is there any church referred to any where in the book of Mormon called the"Church of Jesus Christ of Latter Day Saints"? A-I don't believe there is.

589 Q-Is there any church referred to in the book of Mormon called the "Re-organized Church of Jesus Christ of Latter Day Saints? A-I don't know of any.

590 Q-You don't know of any church so designated? A-No sir I don't know of any in the book of Mormon.

591 Q-Is there one called the "Church of Jesus Christ of Latter Day Saints? A-In the book of Mormon?

592 Q-Yes sir? A-No sir,-not that I know anything of.

593 Q-Is there one called the"church of Latter Day Saints" A-I think not,for I never saw it if there is.

594 Q-Were those names or any of the mentioned in the first edition of the book of covenants? A-I think the Church of Latter Day Saints,and the Church of Christ is mentioned there,but I am not certain about the Church of Jesus Christ of Latter Day Saints.

595 Q-You think that the name of the Church of Christ is mentioned ** there? A-I think so.

596 Q-That * is the name of these defendants mentionad here is it not? A-What is that?

597 Q-That is the name of these defenadants here is it not? A-I don't know that.

598 Q-Is that not the name of the people who have been sued in this case? A-I so understand it. I understand that is the name in which they have been sued.

599 Q-Is there any other book which you have not put in testimony here or on exhibit that is called the Book of commandments? A-Yes sir.

600 Q-There * is such a book you say? A-Yes sir,there is a book of commandments.

601 Q-What place in the laws of the church does that book hold? I don't know that it hold any.It does not hold any place by itself.

602 Q-The re-organized church which you represent,then as I understand you to say does not endorse or hold the book of commandments to be a book of authority in your church? A-Not as a book,-Not as a fragmentary book. Things that are in the book as published in the book of covenants subsequently from 1835 we recognize,but the matter that is in the book of covenants so far as that matter is authorized we recognize.

603 Q-Do you accept all the matter in the book of commandments as published? A-I say we recognize it authority so far as it has been passed upon and accepted by the church. Whatever in the book of commandments there is that has been acted upon by the church we accept.

604 Q-I asked you if you accepted all the matter in the book of comman-dments as published? A-No sir.

605 Q-Do you not recognize that book as an authority in the church? A-No sir,not as a book we do not. We do not recognize it as a complete book ** ** **. accepted by the church.

606 Q-Well do you recognize all the doctrines as taught * in the book of commandments? A-I could not tell you that colonel. The book of commandments was a fragmentary work,the publication of which was inter-rupted here in this very city and the leaves scattered,and subsequently to that it was,-a committee was appointed or selected whose work it was to ~~compile that book~~ compile that book,but as the work was uncompleted,and never accepted or passed upon by the church,we never regarded it as an authentic publication.

607 Q-Who never regarded it as an authentic publication? A-The re-organized church never did.

608 Q-Is it not a fact that you only regard that part of the book of commandments which you transferred to the book of Doctrine and Covenants in the re-organized church as authentic? I do not believe I quite understand yourquestion colonel.

609 Q-I asked you if it is not a fact that the re-organized church only regards that part of the Doctrine and Covenants as authentic which the re-organized church transferred from the book of commandments to the book of Doctrine and Covenants? A-We recognize the Book of doctrine and Covenants as authorized by the church in 1835 as the declared law of the church to govern-it

610 Q-Is it not a fact that you only regard that part of the book of commandments,which was transferred to the book of covenants as authentic? A-I will not answer that question for the reason that I don't know anything about it.

611 Q-You say you don't know anything about that? A-No sir,and I will simply state that the book of commandments was an uncompleted work,and was in a fragmentary condition. It was not a completed work as we understand it,and it is not accepted by us as authentic. I will state further that our book of covenants is sometimes called the book of commandments and covenants.

612 Q-Is the name"Doctrine and Covenants" the first name of the book that isxpresented here as the book of doctrine and covenants? A-I think so.

613 Q-Well examine it a state if that is the case? A-I cannot say for the title page is gone,but I think that is it.

614 Q-The title page of that book is gone? A-Yes sir,

615 Q-It is right unfortunate that the title page is out of that book is it not? A-Yes sir it is unfortunate. We are sorry for it for we would like to replace it with and original. We could get some money for them if we had a few of them.

616 Q-Well it seems to me that it is money or lots that you are after A-Yes sir. That is not testimony.

617 Q-No sir,-don't put that down? A-I did not think you wanted it to go down.

618 Q-Well yes sir,I don't care,-that can go down if you want it? Now is it not a fact that the re-organized church has changed the name from that of the book of commandments to that of the book of doctrine and covenants? A-I am not aware that that is the fact sir. In putting that binding on them may have put the label"Doctrine and Covenants.

619 Q-When in right and truth,-in fact and truth the right designation would have been the book of commandments ? A-Well I could not say as to that.

620 Q-Now Mr Smith was there a revelation given through your father Joseph Smith in 1838,giving the name of the church as that of the Church of Jesus Christ of Latter Day Saints? A-I could not tell you.

621 Q-You don't know about that? A-As to whether or not there was such a revelation.

622 Q-Yes sir. A-No sir.

623 Q-Have you not published an editorial in which you state that to be the fact? A-In what?

624 Q-Have you not publis hed an editorial in the Herald in which you state that to be the fact? A-In the Herald? I don't remember of any such an editorial.

625 Q-If the publication was produced,would you be able to recognize it? A-I presume I would.

626 Q-Do you recognize that publication?(handing witness a paper)
A-Yes sir.
627 Q-What is it? A-It is a copy of the Saints Herald.
628 Q-Where is it published? A-It is published at Lamoni,Iowa.
629 Q-Do you recognize that editorial on the first page? A-I recognize it as the leading article,-questions and answers.
630 Q-Do you recognize the authorship of it? A-I recognize it as an article written by one of the editors.
631 Q-Well who are the editors of that publication? A-Joseph Smith, W.W. Blair.
632 Q-Are they the only editors? A-Yes sir.
633 Q-Who is Joseph Smith? A-That is myself.
634 Q-Well do you endorse that article? A-I endorse it as the editori-al utterance of the editor who wrote it. I endorse it as the utterance of the editor who wrote it.
635 Q-In that editorial is this statement which I read to you from it, -"In 1838 the church adopted the further title"the Church of Jesus Christ of Latter Day Saints", See the Millenial Star, volume 16,pages 117,130,131, et,hand April 26th 1838 Joseph Smith the seer received a revelation saying,-"Verily thus saith the Lord,my church of Jesus Christ of Latter Day Saints scattered abroad in all the world for thus it shall be in the last days,-Millenium Star,volume 16,pages 147 and 148". What do you say to that? A-I recognize it from the quotations and citations give there.
636 Q-Then you recognize what I have read to you as a quotation from the paper of which you are one of the editors? A-Yes sir,I recognize it from the quotations just as they are stated to be from current and written history. The citations are given therex and where they are to be found,but as to their correc-tness or truthfulness I could not say.
637 Q-What was the object and purpose of that publication? A-It was in response to a question asked,and they are given there for just what they are worth,and what they purport to be. That is all they claim to be andall that is claimed for them,and we give our authority.
638 Q-Do you or do you not consider the authorities from which you quoted as authentic? A-We considered them as being indicative of what the understanding at that time was,and as evidence touching the name of the church.,and the value that was to be given to them was according.
639 Q-Where did you get authority for addition to the name of the church of the word"re-orgnized"? A-A-From the fact understood by us that it was a re-organization of the elements into a new organization or rather a gathering together again of the elements of the church that had been scattered abroad.
640 Q-You say that was a fact? A-Yes sir that the conditions existed.
641 Q-Where did you get that fact? A-We got it sir from the logic of events.
642 Q-What events? A-Things that transpired,and the membership that was gathered together in that way from different sections.
643 Q-Do you recognize in your church the rule of thelogic of events? A-Yes sir,we do when we are compelled to do so.
644 Q-Did you recognize the logic of events of every character whatever as rules for the guidance of your church? A-No sir,for there are facts of different discriptions and characters,and they may be for us or against us.
645 Q-Well was this name as given here fo be for you or against you?

A-Well that is a question that is to be determined hereafter Colonel?

946 Q-You can't say how that is now? A-No sir, I apprehend that will have to be determined hereafter.

647 Q-Well you think that it is an issue in this case? Is that the fact? A-It appears to be.

648 Q-Well can't you give any other reason as to why you adopted or took possession of the word "re-organized", as an addition to the title of your church? A-We adopted that word as a kind of a distinctive title from that of the church in the Utah Valley at Salt Lake, or Deseret.

649 Q-Did you get the authority for its adoption by revelation? A-No sir.

650 Q-Well that is so much settled,-or did you get it by revelation? A-No sir.

651 Q-Did you get it out of the Book of Mormon? A-No sir.

652 Q-Did you get it out of the Book of Doctrine and Covenants? A-No Sir.

653 Q-You did not get it out of either the Book of Mormon or out of the the book of doctrine and covenants? A-No sir. nor did we get it out of the bible.

654 Q-Nor out of the bible did you get it? A-No sir, nor out of the book of commandments, nor out of the Times & Seasons, nor the Millenium Star. We did not get it out of any of them Colonel.

655 Q-Nor the Herald? A-No sir.

656 Q-Well where did you get it from? A-From the apparent necessities of the time, and our disposition in regard to it.

657 Q-When was the church first designated as the re-organized church? A-I could not give you the date.

658 Q-Was the name formally and definitely adopted any where? A-Yes sir, at our conference it was designated the re-organized church.

659 Q-At what conference? A-I could not tell you.

660 Q-Was it called the re-organized church at the time you became a member in 1860? A-I don't know that it was.

661 Q-What was it called then? A-I don't know that any title had been agreed upon. I do not know that any title had been agreed upon at that time.

662 Q-That was in 1860? A-Yes sir.

663 Q-That was the time you were elected President? A-Yes sir.

664 Q-And from that time on down to the present you were elected the head of the church? A-What is that?

665 Q-I asked you if from that time down to the present time you have been the head of the church? A-Yes sir.

666 Q-What is your office called,-what is the position you hold? A-Presiding elder.

667 Q-Would you not have known about so important a thing as a change in the name, or an addition to the name of the church? A-Yes sir.

668 Q-And would you not have known distinctly at what time such a change was proposed, and at what time such a change in the name of the church took place, to give effect? A-I would have known the time it took place, but to give you the date is something I could not do.

669 Q-Well now was the reason of the change of the name, or the addition to the name of the word "re-organized" made, after some addit onal revelations had been placed in the book, of doctrine and covenants at that time? A-I think not. I don't think there was any additinnal

made to the book of doctrinexand covenants at that time.

670 Q-Did you not testify yesterday that additional revelationd were put in the book of doctrine and covenants in about the year I879? A-Yes sir,I think so.

67I Q-You testified that additional revelations were put in the book of doctrine and covenants then? A-Yes sir.

672 Q-And did you not testify that about fifteen pages were added then A-I don't remember that I stated the number of pages,but probably it was fifteen.

673 Q-And is it not a fact that the additions were made to the book of covenants making the change of name very appropriate? A-No sir,that is not a fact.

674 Q-You say that is not a fact? A-I do.

675 Q-Wouldn't the change of a name of a religious body,or any other body be very appropriate when there is a change made in the rules or regulations governing that body,or when there are different rules or regulations made governing that body? A-I don't understand the question Colonel.

676 Q-I asked you if it is not a fact that a change of the name of a body,religious or otherwise would be very appropriate when there is a change of the rules or regulations governing that body? A-No sir not exactly. I don't see it in that way.

677 Q-Would it be the same body after the change in the rules and regulations regulating and governing it were made,as well as a change of name is made? A-Yes sir.

678 Q-That would not make any difference? A-No sir.

679 Q-Would it be the same body,although the name might be the same, after the rules and regulations for its government were changed? A-Yes sir.

680 Q-You say it would be the same body after these changes were made? A-Yes sir.

68I Q-So then if you had a dozen or any other number of rules and regulations made for the government of any body,-religious body I will say,-and afterwards you were to add one hundred other and supplementary rules and regulations,you maintain it would be the same body? A-Yes sir.

682 Q-Please explain how you arrive at that conclusion? A-It would be the same unless there was a radical change made in its organic structure of faith and doctrine,it would remain the same body if the rules and regulations you suppose were in harmony with its organic laws,and there would be no material change in its rules of government,and particularly would this be the case if the same body of people substantially remained with it and came under the government of these rules and regulations.

683 Q-But if there were additions to its rules of government and doctrine,wouldn't it logically follow that these additions made it or constituted it another body,and gave it another and distinct individuality?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is immeterial and incompetent and calls for an opinion of the witness,which is not evidence in this case.

684 Q-Answer the question? A-Not necessarily,if the membership remained the same without antaganising. It that case it would remain the same goverened by different rules. That is all there would be to that. I should say it would be the same body goverened by additional rules,and there was no conflict in the organic structure of the church ot body effected.

685 Q-So then it is the same church even if it has additional laws to govern it? A-Yes sir

686 Q-And different doctrine and an addition to its name? A-Yes sir, so long as they are not in conflict with its organic laws and fundamental principles. It does not necessaril y follow under these conditions that it is another body because of these facts if there be no conflict in the rules and regulations of its organic structure.

687 Q-Now Mr Smith there is no conflict in the organization of the bodies of John Crow and James Crow, and yet are they the same bodies? A-Well if th re are two men and one is John Crow and the other is James Crow, they may be identically alike in composition and yet be different bodies. They certainly are different bodies for one is John Crow and the other is James Crow and they have seperate and distince organization and existence. I do not think that your simile is quite perfect in its application to this casd Colonel.

688 Q-Well then if they appear to be very much alike it would be very proper to give them different names wouldn't it? A-Most assuredly if they were two different and distinct bodies,-as they certainly would be.

689 Q-Well now then if one lived in I830 and died in I844, and the other was born in I852, could they under any circumstances be the same man? A-Yes sir, figuratevely speaking, in a sense they could be.

690 Q-How could tat be? A-They could represent the same interests and other constitutional identies, that attached one to the other by succession, but not withstanding this fact they would not necessarily represent or stand for the same individual.

691 Q-How can you re-organize a dead body? A-Well we don't propose to do that. In this case the body was alive all the time, although for a time its vitality was very slow.

692 Q-You say you don't propose to organize a dead body? A-No sir, not if it is once dead.

693 Q-Well that is just what you did do though? You attempted to do it at any rate, and I would like to to know the modus operandi that is to be followed in achieving that result.

Counsel for the plaintiff objects to the question asked the witness on the ground that the same is irrelevant and immeterial.

694 Q-Well how did you re-organize the Church of Jesus Christ of Latter Day Saints if such a thing was done? A-Those individuals who had been members of the original church met together, as they had the undoubted right to do, and renewed their faith by entering into a representatiove organization, few at first it is true, but graduall gathered others unto them by calling others who had also been members of the priginal church during the life time of Joseph and Hyrum Smith, and who listened to their proposition. That was the way it was done, and out of the scattered remnants of the original church who had remained steadfast in the faith, so gathered together the work of re-organization was begun and carried through to its sucessful consummation.

695 Q-Now then I understand your answer to mean this,-that when the original church left Nauvoo, Illinois., that a number of the people who had been its adherents remained behind, and that in and about thexyear I852 they came together and organized a church upon the same prind ples as had formerly existed in the regulation and government of the church at Nauvoo? Now do I state th t proposition fairly, for I tried to state it fairly. A-Well I can't say what

you understood me to say about that.

696 Q-Well I asked you in making my statement,and stated that was what I understood you to say,and asked you if I understood you and x had made a fairir statement of what you had stated? A-Well I suppose that is substantially what I stated. What I stated was xx thxxxirx that at the time of the death of Joseph and Hyrum Smith there was a change of adminstration, which a great many of the adherents of the church at that time,couldn't and did not accept,and that those parties scattered throughout thea great many different counties in the states of Iowa,Wisconsin,and Illinois,and having confidence and faith in the church to which they had belonged ,and and having been consistent members of it,they essayed an organization upon the principles existing prior to the death of Joseph and Hyrum Smith".

697 Q-By what authority did they meet? A_By the authority that all individuals had to meet who were constitutional members of the church before its fall.

698 Q-Did a single individual have any right to assemble the church? A-No sir not any single individual member,but he had a right to commence the movement however.

699 Q-Did a dozen individuals have a right to assemble in a church of their own free will and aacord? A-Yes sir.

700 Q-A dozen individuals had the right to call an assemble and meetforxthat purposes? A-Yes sir.

701 Q-Was there any restriction on that right? A-No sir,only they of of course must have been members of the old original church, or had been members of that church.

702 Q-If they had been members of the church they had that right? A-Yes sir.

703 Q-Now were those people members of the church after the church as you claim had been dissolved? A-I am not aware of the fact that I have made any such a statement or claim. The church had not dissolved,for they were its members,and had the undoubted right to claim privelege of exercising the rights of membership. x They were undoubtedly members,and were in reality ofxthe church.

704 Q-Had they be attending church? A-They had some ofthem in certain places. Yes sir.

705 Q-Had they been attending conferences? A-No sir.

706 Q-Why not? A-For the simple reason that none had been held by those who believed with them,but conferences had been held by others,parties who afterwards came into the church.

707 Q-How were the conferences held by the old church ? A-In the usual way that conferences were held.

708 Q-Well I mean with reference to the time of holding them,-were the held annually? A-I think they were both semi-annually and annuallyx. In the spring and fall I think there were held

710 Q-That was not according to the law? A-No sir for the law simply says they shall meet from time to time . That is a matter that the church fixed itself,and it was fixed according to custom and convience I assume. There was an interval of some months,-six months I suppose between the dates of the semi-annual conferences.

711 Q-Then these scattered people who met in 1852 did not meet in accordance with any custom did they/or any law of the church? A-Yes sir,they met in accordance with the custom.

712 Q-What custom did they meet in accordance with? A-The custom of meeting together for conference and for preaching and for song

709 Q — Was that according to the law of the church?

A — It was according to custom

service,and for prayer service.

7I3 Q-That is how that happened to come together? A-Yes sir.

7I4 Q-That would be in there local assemblages? would it not? A-Yes sir.

7I5 Q-Now who notified them to come together at Newzrk,Wisconsin? A-I couldn't tell you that.

7I6 Q-You don't know who it was notified them to come together at that time? A-No sir.

7I7 Q-Did any one notify them to come together? A-Well that I can't tell you either. That was befor my day,and I have no personal knowledge of the facts and circumstances surrounding that gathering.

7I8 Q-You cannot say anything about that? A-No sir for the reason that that conference was held in 1852,and I became connected with the church at first in 1860. That was before the time that I became identified with the movement by eight years,-seven or eight years.

7I9 Q-Now then you state that you took no further,-that you did not go with the church or those of them who left Nauvoo in 1846 or '47 and went to other places,and that there was quite a number of others that refused to go also,and that your refusal was based upon additions to the doctrine and practices of the church? A-Yes sir.

720 Q-Of those who went? A-Yes sir. *I so stated.*

72I Q-That was your reason? A-Yes sir.

722 Q-And you considered that you were doing right in such refusal? A-Yes sir.

By Mr Kelley,-"All this is immeterial and incompetent and irrelevant and it is objected to for that reason. I also object to it for the reason that it is not cross examination.

723 Q-And yet you say that afterwards,-after you became a member of the church in 1860 that additions to the rules and doctrines of the church were made,and yet you stayed with that church, although after the dispersion from Nauvoo you refused to go with the church because of additions that had been made to the rules and practices of the church? A-I don't understand the question.

624 Q-You testified that you refused to go with the church or any of the branches of it after the dispersion in 1846 or '47 because of the fact that additions had been made to the rules and practices of the church? A-Yes sir,-that is what I stated I believe.

625 A-And yet you joined this church,-the re-organized church,so called in 1860,and although there has been additions made to the rules and practices of that church since that time you do not refuse to leave it? A-There was no rule or doctrine changed or added that differed in any material degree from what was in the original church,-nothing that was in any reppect in conflict with the organic structure of the church as it existsed in the days of my father.

726 Q-After you became a member of the re-organized church there was additions made to the book of doctrine and covenants,and yet you did not see proper to leave it? A-No sir,I did not.

727 Q-Well I would like to become acquainted with your reasons for that action, A-For not leaving it?

728 Q-Yes sir? A-Well sir it was because there was nothing added in the rules and regulations that have been added since I have been a member, orbefore,that has been subversive of the rights of

the people or the organic structure of the church,while those we objected to,we considered were.

729 Q-Now those you objected to originally were in your opinion subversive of the rights of the people and the doctrines of the church,-that is in your opinion they were? A-Yes sir.

730 Q-And these additions added on the rules and regulations by the re-organized church,in your opinion were not subversive of anything? A-No sir.

731 Q-That is the way it is? A-Yes sir.

732 Q-Then the authority that has governed you in this matter has been your opinion? A- No sir.

733 Q-Well what has governed you if it has not been your opinion? A-The rules and organic structure of the church,-its doctrine and faith and principles as laid down in the recognized standards are the basis,or furnish the basis upon which my opinions were based.

734 Q-Well after all it has been your own individual opinion that has governed you has it not? A-My estimate of these things as a matter of course governs me in my choice of principle and doctrine.

735 Q-Was it not a matter of fact the individual opinion of all these other parties who joined you in this movement the influence which governed them? A-I do not know what governed them.

736 Q-Well do you know anything else that did govern them? A-I could not say.

737 Q-You do not know what their motives were or have been? A-No sir I do not know what their motives may have been. I cannot say what a persons motives may have been unless I see the evidences of it.

738 Q-But you knew at the time as I understood you to say,that the church was re-organized in 1852 in consequence of any revelation or any authority contained in any of the books that are recognized as authority in the church? A-No sir I don't know that. They affirmed that they were directed by revelation,but whether they were or not that is a matter for them to testify to and not me,-that is a matter of their testimony and not mine.

739 Q-They affirmed they were led by revelation? A-Yes sir.

740 Q-To what extent? A-I cannot say,but to a greater or lesser extent.

741 Q-Do you affirm that you were led by revelation also? A-I was in respect to uniting with them.

742 Q-So then if the affirmations of these people who re-organized the church in 1852 is correct,it was re-organized at that time in pursuance of revelation? A-Yes sir by revelation or direction to that effect.

743 Q-Well was it by revelation? A-That is what they say but of course I cannot say as to that. that is a matter that I am not competent to prove.

744 Q-Now can you tell me how we are to asertain whether they were deceived or not? A-I cannot tell you.

745 Q-You cannot tell me anything about that? A-No sir.

746 Q-You say you joined the re-organized church in 1860 in consequence of a revelation to that effect? A-Yes sir.

747 Q-Now is there any way by which we can asertain whether you were deceived or not? A-I do not know.

748 Q-Can you tell me any way by which we can asertain as to whether or not you were deceived,-whether or not you had a revelation to that effect? A-I cannot.

749 Q-Can you tell the Judge of the Circuit Court of the United

States of America? A-How is that?

750 Q-Can you distinctively tell the Judge of the Circuit Court of the United States of America,-I mean the Judge of the Circuit Court of the United States,how he can know that you were not deceived? A-No sir.

751 Q-Then you fill this gap between the disruption at Nauvoo and the ~~thm~~ coming together again in 1852 by the assumption that the people were revelation? A-By revela tion?

752 Q-Yes sir by various revelations to the people there assembled? A-No sir,I do not fill the gap with any such an assumption.

753 Q-You do not? A-No sir.

754 Q-Then what do you fill it with?

By Mr Kelley,-"I object to that question on the ground that it is incompetent,irrele ant and immaterial,and not cross examination."

755 A-I am perfectly willing to explain it as I understand it.

755 Q-You say you are willing to explain it as you understand it? A-Yes sir

756 Q-Well you may go on and state,if you know,by what authority the conf rence of 1852,or the assembly of 1852 at Newark,Wisconsin was had? A-By what authority?

757 Q-Yes sir by what authority that assembly was had,if you know?

Counsel for the plaintiffs objects to the question asked the witness on the ground and for the reason that the same is immaterial, incompetent,and does not call for the best evidence of the fact sought to be proven,and it is not cross examination."

758 Q-You may answer the question? A-My understanding of the matter is this,-persons invested with a right of membership in the church did not lose the right,or that right I should say,- the right ~~x~~ of that membership because of the introduction into the church of new doctrines and teachings which they held to be pernidious or incorrect doctrines,because of their conflict with the fundamental principles of the church into which they had been baptized,and these parties remained in the regions round about,-one in one direction,and one in another. They had done this prior to the conference of June 12th 1852,although that was the first regular conference that had been held after the dispersion. They had met together in small bodies prior to this and had agreed among themselves and by a call to others to meet together at Newark,Wisconsin, on that day for the purpose of taking into consideration what they should do in reference to their membership,and whether they should take part in effecting an organization. Now that is the way I understand it,but what moved them to that course personally I do not pretend to say.

~~759~~

By Mr Kelley,-

759 Q-You do not know these facts of your own knowledge? A-No sir,only as I have been told and from the records of the conference

760 Q-Well I move the Court to exclude the answer of the witness on the ground that it is not the best evidence and is incompetent and hearsay".

~~761~~

By Mr Southern,-

761 A-Have you any standard histories treating upon that point? A-On what point?

762 Q-Has your church any standard histories upon that question,or any standard historical ~~xxxxx~~ publications that are accepted by ~~the~~ your church as stating the facts with reference to that ~~or~~ organization? A-I don't think there has been any history authorized and accepted by the church. There was a statement made by one of the men who were present ~~at~~ that gathering.

authorized to come together in 1852 by

who was present at that gathering,-I think the one who presided at that conference,and he gives an historical statement which is accepted by the re-organized church as a true statement. That it is accepted by the individual members of the church as being substantially a true statement of the conference and the matters that transpired there. Of course as to that I do not know anything about.

765 Q-Is there any historical statement of the proceedings of that conference which is accepted by the re organized church as a true statement of the events that transpired there? A-I do not think there has ever been any formally accepted.

766 Q-Has or has not one Z.H. Gurley published a history of that organization,and the subsequent action up to the time you became a member of the church, which is received by the re-organized church? A-I think he wrote an article which is entitled perhaps a history of the re-organized church,or of the organization,and it was published perhaps in the Herald. I do not know that it was ever completed,but it was simply published as his statement,and so stands in the columns of the Herald.

By Mr Kelley,-"I move to exclude the answer of the witness as incompetent and immeterial and not the best evidence".

By MrSouthern,-

765 Q-Do you know whether or not that article or history has ever been endorsed by any of the authorities of the church? A-I do not know that it has ever been formally endorsed.

766 Q-I believe you are one of the editors of the Herald as you stated this morning? A-Yes sir.

767 Q-Did you ever endorse it as one of the editors of the Herald? A-No sir.

By

Counsel forthe plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is incompetent,irrelevant and immeterial,does not call for the best evidence and is improper cross examination".

768 Q-You are familiar with these minutes as presented here in this record are you not? A-What is that?

769 Q-You are familiar with these minutes as they appear here in the record that has been offered here and identified as an exhibit? A-I am only casually familiar with them.

770 Q-Well to what extent are you familiar with them? A-I am only casually familiar with them as I stated. I have read them in a cursory way,and not with any intention of charging my mind with the contents to a sufficient degree to state confidently what they contain.

771 Q-Willyou take that minute book marked exhibit N,and turn to the first organization there,and read what it recites concerning the causes which caused them to assemble there together at that time.

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is incompetent,irrelevant and immeterial,and hear say,and not proper cross examination.

772 Q-Could you do that? A-I could do anything,-I could read anything that is in that book I believe,

773 Q-Well I know that,but can you turn to these minutes,or any of these minutes in the record which I now hand you,and which recites the authority by which they assumed to re-organize? A-I don't know that I can.

774 Q-Well we will let it pass at that? A-I don't know that I can for it has been some time since I examined the minutes,and as a matter of fact I do not know that there is any such a thing recited there at all.

775 Q-Do you say that there is not? A-No sir. There may be, but if there is I don't know it.

776 Q-Then personally I understand you to say you do not know anything of the proceedings of that organization down to 1860? A-I was not a participant in any of their gatherings until 1860 and therefore of my own personal knowledge I do not know anything about it.

777 Q-Were you aware of it at the time? A-Aware of what?

778 Q-That an attempt was made at re-organization? Were you aware of that fact for any considerable time(before the time that you went into the re-organization?? A-Yes sir I heard it from time to time.

779 Q-When was the first time that you heard of the attempted re-organ-ization? A-I do not remember anything positively until 1856 when two of the brethern visited me.

780 Q-That was the time that you were first visited in reference to joining the movement? A-Yes sir.

781 Q-Now you say that two of the brothers visited you. I will ask who they were? A-Samuel H. Gurley and I believe E.C. Briggs.

782 Q-E.C. Briggs? A-Yes sir,-Edmund C. Briggs.

783 Q-What position id these gentlemen hold? A-Gurley and Briggs.

784 Q-Yes sir? A-I don't know positively,but I think however that they were elders.

785 Q-They were elders? A-That is my understanding,but I.do not state it as a positive fact.

786 Q-Had the church any President up to that time? A-AT what time?

787 Q-From 1852 up to that time? I could not say of my own knowledge, but the history says that they had a provisional president.

788 Q-Did they have any president after that time,and if so when was he made President? A-Do you mean before 1852?

789 Q-No sir,after 1852,and up to 1860? I ask you from 1852 to 1860 in reference to whether or not the church had any President during that time? A-That is the question I have just answered. I said I understood they had a President who was appointed provisionally or temporarily.

790 Q-Can you point to any provision of the law that govern the church that would authorize a provisional President? A-Yes sir. In a promiscuous assemblage the one holding the highest authority presides.

791 Q-Where do you find that law? A-I don't know that I can state it exactly,but it is a principle however that is acceded to by all of us in this church.. In a promiscuous assemblage where there is not any organization,the one holding the highest authority present,presides.

792 Q-I think you stated that In 1860 you were elected or ordained to preside over the church as its president? A-I so stated the fact to be. Yes sir.

793 Q-What are you functions as you understand them,as President of the Church,to which you belong?

Counsel for the plaintiff objects to the questionasked the witness for the reasons and on the grounds that the same is incompetent,irrelevant and immeterial,not the best evidence of the fact sought to be proven,not proper cross examination,and calling for an opinion of the witness.

794 Q-You may state what are your functions? A-I am to preside over the organized assemblis held from time to time,and have a spiritual watch and care over the whole church in connection with

my colleague.

795 Q-That is your function as President of the Church? A-Yes sir.

796 Q-What else do you do? A-I am at present editor, or associate editor of the Herald.

797 Q-Does that inhere to the office of President of the church? A-No sir.

798 Q-Well what priestly functions are connected with it? A-Presiding over the authorities of the church.

799 Q-Be more explicit and state what authorities? A-Over the priesthood of the church

Q-

800 Q-Then, are you an high priest? A-Yes sir.

801 Q-And are you the presiding highpriest? A-Yes sir.

802 Q-Is that what is meant by, President? A-There rule of law required that there should be three when it is full, chosen from amongst the high priesthood, and the President of the church is called President of the high priests or priesthood. These three form a presiding quorom called the First Presidency. There are but two however, who are at present acting.

803 Q-What office was there in the church prior to I844 that coresponded to that? A-There was the same organization at that time.

804 Q-Your father, Joseph Smith, and his counsellors were the first presidency were they not prior to I844? A-Yes sir, prior to the time that he was killed.

805 Q-And in them inhered the gift of revelation did it not?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is improper cross-examination, irrelevant and immeterial, and calls for an opinion of the witness.

806 Q-Did it, or did it not? A-No sir, for the right of revelation inheres to every member of the church who is possessed of the gift but the gift to receive revelation for the church and its guidance inheres in the presidency of the church, and what ever purports to be revelation is tested, as has been the custom.

807 Q-Well Mr Smith you may state again what the custom has been in that respect? A-It is our understanding according to the light we have, that whatever purports to be revelation for the doctrine or government of the church or affecting either in any material issue, when received before it becomes authority, must be presented to and acted upon by the presiding quoroms of the church, the Presidence, the twelve and the seventy especially.

808 Q-Have you any record or anything showing that this was done with any revelation given through your father?. A-Yes sir.

809 Q-You have? A-Yes sir, I believe we have.

810 Q-Have you them here in any of these books that have been presented here? A-I think so.

811 Q-Can you lay your hands upon the book or books that contain it, and point it out? A-I think I can, but it will take some time to do so.

812 Q-Let me call your attention to that law,-Now it is the law I want on the subject, and if it exists I would like for you to call my attention to it? A-It is not in the law,-it is in the records of the general Assembly held on the I9th of August I835 on page two hundred and fifty five of Exhibit E, and the same history is found in the current literature of the time.

813 Q-And the doctribe as found stated here on the matter on which it treats is, as I understand it, accepted by the re-organized church? A-The statement is accepted as the minutes of an assembly held on that day, and only that. It is accepted only for what

purports to be and nothing else. I do not know that there is any doctrine in it,-it is just a simple statement of events as they transpired. At all events that is what we take it to be. The same record or substantia ly the same was publish -ed at the time in the Evening and Morning Star,or the Messen -ger and Advocate,-I don't know just what it was,but it was either one of these publications.

814 Q-Well,is it a fact as stated here,that the assembly being duly organized,-the assembly of August 17th 1835,-"The Assembly after being duly organized,and after transacting certain business of the church,proceeded to appoint a committe to arrange the items of dictrine of Jesus Christ,for the government of hic Church of Latter Day Saints"? A-I would not tell you. I was not present,and I take it from the history for what it purports to be. I could not tell you whether it is a fact or not but it is accepted as history,or a record of a thing that occured.

815 Q-You were not there at the time? A-Certainly not,for at that time I was not yet three years old,so I.don't know anything about it of my own knowledge.

816 Q-Are the proceedings and actions taken at that meeting,-August 17th 1835,-a precedent or a rule of conduct for the church at the present day,-that is are they a rule and precedant for the re-organized church at the present day? A-Yes sir,they are a presedant.

817 Q-They are a precedant? A-Yes sir,and that is all.

818 Q-Are all the revelations that are recognized as binding upon the church to be found in this book of doctrine and covenants,and in the subsequent editions of the book of doctrine and covenants? A-Do you mean in reference to the re-organized church

819 Q-Yes sir? Q-I think so with perhaps one or two exceptions. There is somethings later that we have not yet printed in the book.

820 Q-What do you mean by that? A-I mean that there is one or two things that we have not printed in the book as yet,-that is, it is not as yet printed and bound in the book that you have there.

821 Q-There is somethings later that is not printed in this book? A-Yes sir. It is not bound in that edition which you have?

822 Q-Is there any revelations regarded as authority in the re-organized church,that are not to be found published in these books of covenants,-say in this book of covenants? A-I think likely there is so,but I cannot say as I don't know what book you have there. There is matters received and acted upon by the church in the spring of 1891,that are not incorporated in that book,but they are received by the church.

823 Q-They were accepted by the church,and are acted upon at this time? A-Yes sir.

824 Q-And are not in this book? A-No sir.

825 Q-On page two hundred and fifty five of exhibit J,is found a revelation given February 1834. Now do you know whether that was printed to the assembly,and by the quoroms before Joseph was killed? A-I do not.know.

826 Q-Is that revelation in the first edition of the book of covenants A-I could not tell you ,but I hardly think it is however,

827 Q-You hardly think it is you say? A-Yes sir. I hardly think it is,but as to that I could not say postively for I don't know, although I am pretty sure it is *not*.

828 Q-Well I would like you to state whether it is or not? A-I have not examined it critically and I could not say.

829 Q-Now in the same exhibit J, at page two hundred and eighty five section one hundred and two,is a revelation given on Fishing

River,Missouri.,June 28th,1834? A-Yes sir.
830 Q-Is that an authority in the church? A-We have received it for what it purports to be'
83I Q-Is it recognized as a rule of action? A-~~Yes sir.~~ It is.
832 Q-It is recognized as a rule of act on by the church of which you are now the President? A-Yes sir.
833 Q-You recognize it in-so-far as it purports to be a rule of action? A-Yes sir.
834 Q-Was that in the first edition? A-I could not.tell you now whether it was or not.
835 Q-Was it ever received generally by the general assembly or by the quorome before the death of Joseph? A-Not that I know of. I couldn't say that it was.
836 Q-Now Mr Smith on page two hundred and ninety seven of the same exhibit J,section one hundred and five,entitled "the word of the Lord given unto Thomas B. Marsh at Kirtland,July 3rdI837, concerning the twelve aoostles of the Lamb",was that in the first book of doctrine and covenants? I hardly think it was for it was given in I837 and the first book of doctrine and covenants was published in I835.
837 Q-Is that regarded as authoritive in the re-organized church? A-For what it purports to be it is.
838 Q-It is accepted for what it.purports to be? A-Yes sir.
839 Q-Was it ever adopted by the assembly and approved by the quorom? A-Do you mean before the death of Joseph?
840 Q-Yes sir. A-Not that I know of.
841 Q-You do not know of its having been adopted before that time? A-No sir.
842 Q-Now on page three hundred of the same exhibit J,section onehundred and six there is a revelation at Far West, Missouri,July 37th I838? A-Is that a rule of action for the church? A-Yes sir . So far as it purports to be it is, It is accepted and acted upon for what it purports to be.
843 Q-Is it the same with the revelation given to Joseph Smith January I9th I84I,as found on page three hundred and one,section one hundred and seven,of exhibit J? A-Yes sir.
844 Q-You don't know whether any of these were ever adopted by the General Assemblies,or approved by the quoroms? A-No sir.
845 Q-You do not know anything about that? A-No sir.
846 Q-Do you make the same answer with reference to a letter of Joseph Smith's,dated at Nauvoo,September first I842,and addressed to all the Saints in Nauvoo,as found on page three hundred and twenty of Exhibit J? A-We accept it as a letter as it purports to be.
847 Q-Is it authoritive with the re-organized church in any way whatever? A-We understand it to be a letter of instruction at the time written by him to the members of the church there.
848 Q-And is it not regarded by the re-organized church of which you are at the present time the President,as authoritive? A-We have regarded it as indicative of what our action should be. We have regarded it as his opinion,but we examine these things for ourselves when we have occasion to do so,but give due weight to his opinion as expressed in that communication
849 Q-Does or does not Joseph give that letter as a revelation? A-I could not tell you that.

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is immeterial and calls for an opinion of the witness,and is not proper cross-examination.

850 Q-Do you make the same answer with reference to section one hundred and ten on page three hundred and twenty two of the same Exhibit J?

Counsel for the plaintiff objects to the question asked the witness for the reasons as stated in the last preceeding objection to the question asked the witness.

851 Q-What do you say as to that? A-It is of the same nature.

852 Q-You make the same answer? A-Yes sir

853 Q-And to the letter dated September 6th 1842? A-Yes sir. It is of the same nature. It is a matter of instruction,and may or may not be considered authoritive as the question may be considered.

854 Q-On page three hundred and thirty four ofthe same exhibit J is a section entitled oneh hundred and thirteen,entitled "martyr-dom of Joseph Smith and his brother Hyrum". Now what about that? A-Well it shows for itself what it is.

855 Q-Well what place does it occupy in the re-organized church? A-It is simply considered asa narration of the circumstances attending the killing of Joseph Smith and his brother Hyrum, and as being written by parties competent to write it.

856 Q-That is what it is regarded to be? A-Yes sir.

859 Q-And is that all? A-Yes sir. That is all.

860 Q-Is ii considered as true? A-So far as the relation of the facts is concerned it is so far as I know. We simply take it for what it purports to be and nothing else,and that is just what the man wrote itwrote in connection with the event,and we believe it to be a true historical narrative of the transaction.,and nothing more.

861 Q-In the same book exhibit J,on page three hundred and thirty six after the word"supple ment",are a number of sections headed with the declaratinn,-"the succeeding sections are published by authority of the General Conference of September 1878,held at Gallands Grove,Io wa,is as follows,-"Now these are the sections,-Whereas we accept the revelations here-to-fore given by the Re-organizedChurch of Jesus Christ of Latter Day Saints,through the present presiding officer thereof,as being the word of the Lord to his Church,equally with those publish

-ed in the book of Doctrine and Covenants;therefore be it. Resolved,that the revelations received by the President of the Church in 1861,1865,and 1865,be received as from God,authoritive and binding upin us as a body;and in connection with the revelation of 1873,that they be hereafter compiled with that book. Passed September 13th 1878". Now is that deliver-anceof the Conference of 1878 regarded by the Re-organized church as authoritive?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that is not cross examination is incompetent,irrelevant and immeterial,and calls for an expression of opinion of the witness.

862 Q-Do you understand the question? A-Yes sir.

863 Q-Well answer it? A-I believe it to be.

864 Q-Well is it regarded as authori ive by the re-organized church? A-I believe it to be. It was so regarded. It was intended to be so regarded,and I believe it is so regarded.

865 Q-Now on the subsequent pages,beginning at page three hundred and thirty six on this book,exhibit J,occur various deliverances from the President of the Church? A-Yes sir.

866 Q-Who was and is that President? A-Myself.

867 Q-You deliver these revelations or what purport to be revelations?

A-Yes sir.

867 Q-Then I offer section one hundred and fourteen beginning on page three hundredand thirty six and ending on page three hundred and thirty seven,as follows,-

"Revelation given October 7th 1861.

I In order to place the church in a position to carry on the promulgation of the gospel,and as a means of fulfilling the law,the TWelve will take measures in connection with the bishop to execute the law of tithing;and let them before God see to it, that the temporal means so obtained is truly used for the purposes of the church,and not as a weapeon of power in the hands of one man for the opression of others,or for the purposes of self aggrandizement by any one,be he whom-so-ever he may be."

2 As I live,saith the Lord,in the manner ye execute this matter,so shall ye be judged in the day of judgement".

I also offer in evidence section one hundred and fifteen,entitled"Revelation given March 1863 on page three hundred and thirty seven as follows,-

I Hearken unto me,O ye elders of my church,Lo I have seen your effprts in my cause,and they are pleasing unto me. I declare unto you it is my will that you ordain and set apart my servant William Marks,to be a counsellor to my servant Joseph,even the President of my church,that the first Presidency of my church may be more perfectly filled. And more over it is expedient in me that my elders in going to declare my gospel to the nations,shall observe the pattern which I have given. Two by two let them be sent,that they may be a help and a sup-port to each other in their ministry. Press onward ye elders and people of my church,even my little flock,and as I have spoken to you in times past,so will I again speak to you as my friends,inasmuch as you speak in my name;and lo,I am Alpha and Omega,and will be with you unto the end,Amen".

I also offer section one hundredand sixteen on page three hundred and thirty eight as follows,-

"Revelation given May 4th 1865.

I Hearken ye elders of my church,I am He who hath called you friends. Consening the matter ye have asked me;Lo,It is my will that my gospel shall be preached to all nations in every land, and that men of every tongue shall minister before me. Therefore it is expedient in me that you ordain priests unto me,of every race who receive the teachings of my law,and become heirs according to the promise.

2 Be ye careful for many elders have been ordained unto me,and are come under my condemnation,by reason of neglecting to lift up their voices in my cause,and for such there is tribulation and anguish;haply they themselves may be saved(if doing no evil)though their glory, which is given for their works,be with hold,or in other words their works are ~~pushed~~ burned,not being profitable unto me.

3 Loosen ye one anothers hands,and up hold one another,that ye who are of the quorom of the Twelve,may all labor in the vineyard,for upon you rests much responsibility;and if ye labor diligently the time is soon when others shall be added unto your number till the quorom be full even twelve.

4 Be not hasty in ordaining men of the Negro race to offices in my Church,for verily I say unto you,all are not acceptable as servants,nevertheless I will that all may be saved,but every man in his own order,and there are some who are chosen instruments to be ministers to their own race, Be ye content,I,the Lord have spoken".

I also offer section one hundred and seventeen on page three hundred and thirty nine,as follows,-

109

Revelation given March 3rd 1873.

I Hearken to the Voice of the Spirit,O,ye elders of my Church;the prayers of my people have prevailed with me.
2 Behold it is wisdom in me,and expedient in my church,that the chief quoroms should be more hearly filled,and their organization more nearly completed. Thus saith the Spirit.
3 Let my servants William W. Blair and David H Smith,be chos-en, and ordained to be counsellors to my servant,the presiding Elder of my church. Let them be set apart to this office by the laying on of hands by my servants whose duty it is to ordain and set in order the officers of my church;and let my servants,the President of the High Priests Quorom,and the President of the Lesser Priesthood,also lay their hands upon these their brethern who are to be counselors,but let my servants of the Twelve be the spokesmen.
4 Let my servants William H Kelley,Thomas W Smith,James Caffall,John H. Lake,Alexander H Smith, Zenas H Gurley,and Joseph R. Lambert,be chosen as especial witnessess,even as Quorom of the Twelve for they are called thereunto,that they may take this ministry upon them. Let them be ordained and set apart to this office by the laying on of the hands of my servants Joseph Smith Jason W. Briggs and William W Blair.
5 Verily,I say unto you,if these my servants will hence forth magnify the ir calling in honor before me,they shall be-come men of power and excellent wisdom in the assemblies of my people.
6 Let the names of my servants Daniel B Rasey and Reuben Newkirk be taken from the record of the Quorom of Twelve,and placed with the records of the names of the Elders,and their labors will be accepted by me.
7 It is my will that my servant Jason W Briggs,Josiah Ells and Edmund C. Briggs,remain and stand in their lots as especi-al witnesses before me.Let them diligently labor in their ministry,encouraging and directing their brethern in their labors. It is expedient for the good of my cause that my servant Jason take the active oversight of his Quorom.
8 Let my servant Archibald M Wilsey,William D Morton,and George Rarick,be ordained high priests;and let my servants K.C. Brand,Charles W. Wandell,and Duncan Campbell be appointed as special witnesses of the seventy in their places ;and let my servant Joseph La keman,Gland Rogers,John T Davies and John S.Patterson,be also appointed as witnesses of the Seventy before me.
9 Until such time as the Quorom of Twelve shall be filled the decision of that Quorom,a unanimous decision,shall be accounted final,as if such quorom were filled,according to my law as given in the Book of Doctrine and Covenants. And until such time as the Quorom of Seventy shall be filled,their decision,if unanimous and agreeing with that of the Quorom of Twelve,shall be considered the same as if the Quorom were filled.
10 It is expedient that the Bishop of my church shall choose two Counsellors,and that they be ordained to their office as my law directs;that there may be henceforth no cavilling among my people. The Bishp of my Church may also choose and appoint Bishops agents until it shall be wisdom in me to ordain other Bishops,in the Districts and large branch-es of my church.
11 It is not expedient in me that there shall be any agents appointed until I command my people. When it shall be necessary,I will command that they be established. Let my command-ments to gather to region round about,and the counsel of the Elders of my church guide in this matter until it shall otherwise be given of me.
12 Behold,if my servants and my handmaidens,of the different or anizations for good among my people,shall continue in righteousness they

shall be blessed,even as thy bless others of the household of the faith.
13 Let contentions and quarrelings among you cease. Sustain ~~in~~ each other in peace,and ye shall be blessed with my Spirit in comforting and strengthing you for my work.
14 It is not expedient that I command you further at this time;but be ye diligent,wise and faithful,doing all things with an eye single for the glory of your God,and the good of his people. Thus saith the Lord, Amen ".

I also offer in evidence section one hundred and eighteen on page three hundred and forty two,as follows,-

Revelation given September 28th1882.
Unto the Elders of my Church.

I In asking of me ye did well. I will hasten my work in its time. Ye cannot now prosecute missions in many foreign lands,nor is it expedient that the Elders of the First Quoroms be sent out of the land of America until the work of the re-organizat on of my church be more fully established, And a greater unity of understanding between them be obtained Nor is it expedient now to further fill up the Quoroms,except it be the elders,priests,teachers,and deacons;which ye may do as ye deem wise,by the direction of Conference.
2 Continue the mission in Chicago until April Conference, when if it be found expedient it may be left in charge of the authorities of the Northern Illinois District.
3 It is my will that ye may more fully honor and pay heed to the voice and counsel to the travelling ministery in spiritual things;which if ye do not,the office which they hold is not honored in my service,and the good they should do is made vodd.
4 If they approve themselves as righteous ministers,they shall be blest;if they be found transgressors or idle servants ye shall not uphold them. But be not hasty in drawing your support from them,peradventure ye shall injure my work. Even now I am not well pleased with some,but space is granted for repentance and a renewal of diligence. Let no one deceive hinself,that he shall not account for his stewardsship unto me.

Joseph Smith.
By command of the Spirit".

I also offer in evidence section one hundred and nineteen on page three hundred and forty three,as follows,-

"Revelation given April 11th 1887".

To the Elders of the Church,-
Thus saith the Spirit,-

I It is not yet expedient that the quorom of Twelve shall be filled;nevertheless,seperate my servants,James W Gillen, Heman C Smith,Joseph Luff and Gomer T Griffiths,unto the office of apostles that the quorom may be more perfectly prepared to act before me. I have still other men of my church,who shall be designated in their time if they still continue faithful unto me and in the work whereunto they are now called.
2 There is a great work to be done by mine elders,and that they may be fitted to do this work,and the accomplishment thereof be not prevented,it is enjoined upon them that they shall not only be kind of heart and of a lowly spirit,that their wisdom may be the wisdom of the Lord and their strength the strength of the Spirit,but they shall lay aside lightness of speech and lightness of manner,when standing to declare the word,and shall study to approve their administrations to the people by candor in speech and courtesy in demeanor,that as ministers of the gospel they may win souls to Christ.

3 The elders and men of the church should be of cheerful heart and countenance among themselves, and in their intercourse with th ir neighbours and men of the world, yet they must be without blame in word and deed. It is therefore not seemingly that they indulge in loud and boisterous speech, or in the relating of coarse and vulgar stories, or those in which the names of their God and their Redeemer are blasphemed. Men of God, who bear the vessels of the Lord, be ye clean in your bodies and in your clothing; let your garments be of a sober character, and free from excess of ornamentation. Avoid the use of tobacco and be not adicted to strong drink in any form, that your counsel to be temperate may be made effectual by your example.

4 That the work of restoration to which the people of my church are looking forward may be hastened in its time, the elders must cease to be over-careful concerning the return of those who were once of the faith, but were over/come in the dark and cloudy day, fearing lest they should bring in hidden heresies to the overthrowing of the work; for verily there are some who are chosen vessels to do good, who have been estranged by the [illegible] snares, which are in the world, and who will in due time return unto the Lord if they be not hindered by the men of the church. The Spirit says "come", let not the ministers for Christ prevent their coming.

5 And the Spirit saith further; Contention is unseeminly, therefore cease to contend respecting the sacrement, and the time of administering it, for whether it be on the first Lords Day of every month or upon the Lords Day of every week, if it be administered by the officers of the church with sincerity of heart, and in purity of purpose and be partaken of in remembrance of Jesus Christ, and in willingness to take upon them his name by them who partake, it is acceptable to God to avoid confusion, let him who presides in the sacrement meeting and those who administer it cause that the emblems be duly prepared upon clean vessels for the bread, and clean vessels for the wine, or the water as may be expedient; and the officer may break the bread before it is blessed and pour the wine before it is blessed; or he may, if he be so led, bless the bread before it be broken and the wine before it is poured; nevertheless both bread and wine should be uncovered when presented for the blessings to be asked upon it. It is expedient that the bread and wine should be administered in the early part of the meeting before weariness and confusion ensue. Let him that partaketh and him that refraineth cease to contend with his brother that each may be benefited when he eateth at the table of the Lord.

6 The service of song in the house of the Lord with humility and unity of Spirit in them that sing and them that hear is blessed and acceptable with God; but song in grievous sadness in them that sing and bitterness of spirit in them that hear is not pleasing to God Therefore, in all the congregation of the people of God, let all strife and contention concerning song service cease; and that the worship in the house of the Lord may be complete and wholly acceptable, let them who shall be removed thereto by a desire and the gift to sing, take upon them the burden and care of the service, and use therein instruments of music of the reed and of the string or instruments of brass in congregations that are large, and as wisdom and choice may direct. Let the young men, and the maidens cultivate the gifts of music and of song; let not the middle aged and the old forget the gladsomeness of their youth and let them aid and assist so far as their cares will permit; and remember that saints should be cheerful in their warfare that they may be joyous in their triumph. Nevertheless let the organ and the stringed instrument, and the instrument of brass be silent when the Saints assemble

for prayer and testimony,that the feelings of the tender and the sad may not be intruded upon. To facilitate unity in the service of the church,those to whom the work of providing a book of song has been entrusted,may hasten their work in this time.

7 And the Spirit saith further;Inasmuch as there has been much discussion in the past concerning the sabbath of the Lord,the church is admonished,and that until further revelation is received,or the quorums of the church are assembled to decidex concerning the law in the church articles and covenants,the saints are to observe the first day of the week commonly called the Lord's day,as a day of roast;as a day of worship,as given in the covenants and commandments. And on this day they should refrain from unnecessary work;nevertheless nothing should be permitted to go to waste on that day, nor should necessary work be neglected. Be not harsh in judgement but merciful in this,as in all other things. Be not hypocrites,nor of those who make a man an offender for a word

8 Prosecute the missionary work in this land and abroad so far and so widely as you may. All are called according to the gifts of God unto them;and to the intent that all may labor together,let him that laboreth in the ministery and him that toileth in the affairs of men of business and of work labor together with God for the accomplishment of the work entrusted to all.

9 Be clean,be frugal,cease to complain of pain and sickness and distress of body;take sleep in the hours set apart by God for the rebuildingand strengthing of the body and mind; for even now there are some,even among the elders,who are suffering body and mind,who have disregarded the advice of the Spirit,to retire early and rise early that vigor of mind and body shall be retained. Bear the burdens of body for which the Spirit of healing from thexLord in faith,or the use of that which wisdom directs does not relieve or remove and in cheerfulness do whatever may be permitted you to pervorm,that the blessing of peace may be upon you all. Amen.
Kirtland,Ohio.,April IIth,I887."

868 Q-Now my object in offering these sections from exhibit J, is for the purpose of showing on your cross examination that the doctrine at present taught and practiced by the re-organized church has been added to large since the year I860. That is my object in putting these in evidence,and I will ask you now Mr Smith if that is not the case?

By Mr Kelley,- "That question is objected to on the ground that it does not call for the best evidence of the fact as it calls for an opinion of the witness,and is incompetent,irrelevant and immeterial and not cross examination,and the introduction of the sections or pages from Exhibit J,just put in evidence is objected to for the same reason".

By Mr Southern,-

869 Q-What is your answer to the question? A-I do not understandkthat there has been any addition. All that has been done is in reference to methods of proceedure,and elucidation of what has already been written. That is all this which you call additions,consists of.

870 Q-Well now had you any doctrine prior to your dileverance of May 4th I865,cautioning the church against ordaining men of the Negro race to office in the church?

Counsel for the plaintiff objects to the question asked the witness on the ground that the same is incimpetent and immaterial, calls for an opinion of the witness,and is not cross examination.

A-I do not know that there was any doctrine cautioning against

the ordination of men of the negro race,and I don't under-
'stand that there is in this.
871 Q-Did you not in that revelation make a deliverance to that effect
,-"Be not hasty in ordaining men of the Negro race to office
in my church"? A-Yes sir.
xx By Mr Kelley,-"I object to that,and I wish you would not answer
Mr Smith until I propound my question. That is not the best
evidence,-the question is not the best evidence,-the best
evidence is in the hands of the counsel propounding the ques
-tion."
By Mr Southern,-
872 Q-Did you make that deliverance in that revelation? A-Yes sir.
873 Q-Did you not make a deliverance of this kind also,which is accept
-ed by the re-organize d church,-"Until such time as the
Quorom of Twelve shall be filled an unanimous decision shall
be accounted final as if such quoroms were filled according
to my law as given in the book of doctrine and covenants,and
until such time as the Quorom of Seventy shall be filled
their decision,if unanimous,and agreeing with that of the
Quorom of Twelve,shall be considered the same as if the quo-
rom were filled". Now sir is that not the law of the re-organ
-ized church? A-Yes sir it is. It is,but it is direct har-
mony with the fundamental law of the church regarding those
organizations.
By Mr Kelley,-"That question id objected to for the reason that it
is irrelevant and immeterial,and calls for an opinion of the
witness,is leading and is not cross examination, and the
answer is objected bo for the same reasons and motion made to
strike it out for the same reasons.
By Mr Southern,-
874 Q-Did you not make this deliverance also,-"The Bishop of my xxxxx
church, may also choose and appoint Bishops agents,until it
shall be wisdom in me to ordain other Bishops,in the distric
-ts and large branches of my church".
Counsel for the plaintiff objects to the question asked the witness
on the grounds and for the reasons that the same is incompe-
tent,irrelevant and immeterial and does not call for the best
evidence,and is not cross examination.
A-Yes sir.
875 Q-You also delivered that utterance? A-Yes sir and it is in di-
rect harmony with the teachings of the book it has referred to
876 Q-Was there any authority in the old organization for a direct
organization? A-Yes sir,I believe there was.
877 Q-Can you point it out? xxI will permit you to do it at any time
if you cannot find it now? A-How is that.
878 Q-I asked you if you could point it out,and said that if you
could not do it,I would permit you to do it at any time?
A-I don''t know that I could specifically. it is a matter
of the organization,and the word district is used in distin-
guishing conferences or organized branches,-the one from the
other.
879 Q-That is the way that is? A-Yes sir it is impossible that the
term is used with that understanding. In the organic law
the declaration is made that the elders shall meet in confer-
ence once in three months,or from time to time to do the
business that is to be done,-what-ever it may bee,-at the
time and in the manner that the conference shall appoint. It
is also the duty of the branches to send a list of their
membership who.last joined,or who were dis-qualified,-or rath-
er I should say dis-fellowshipped,"
880 Q-Of what did your differene branches consist? A-Congregations
of the church.

881 Q-Of the elders? A-Elders,priests and deacons,-whatwver officers the~~y~~ are,-except~~x~~ in some districts where they have adopted a system of representation by delegates,-or delegate representation.

882 Q-Does not the law to which you refer say it shall be an elders conference? A-It says the several elders shall hold ~~x~~ conferences~~x~~ It says also that the branches shall send some officer or teacher,or the hand of some priests their reports.

883 Q-Is this not the law of the re-organized church as given through you by revelation,-"Presidents of the seventy are instructed to select from their several quoroms of elders,such as are qualified and in a condition to take upon them the office of Seventy", A-Where is that?

884 Q-That is found on page three hundred and fifty,paragraph ten in Exhibit J? A-I hold exhibit J here in my hand and page three hundred and forty six is the last page in it.

885 Q-Well I will withdraw that question because I have inadvertently gone further than the exhibit exhibit extends. Is this an added law of the church on page three hundred and forty four in section one hundred and nineteen,-the last one I quoted from there,beginning one line from the top at the words"Men ~~x~~ of God who bear the vessels of ~~xxx~~ the Lord,be ye clean in your bodies and in your clothing. Let your ~~xxxxxx~~ garments be of a sober character and free from excessive ornamentation Avoid the use of tobacco and be not addicted to strong drink in any form,that your counsel to be temperate may be made effective by your example"?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immeterial,calling for an opinion of the witness, and not cross examination.

886 Q-Is that an addition to the former rule of the church?

Counsel for the plaintiff objects to the question asked the witnes on the grounds and for the same reasons as are set forth in the objection to the last preceeding question.

A-It is a matter of instruction and amplification. I do not think it is an addition but simply an elucidation in the way of instruction.

887 Q-Well so far as I am individually concerned and my sentiments are concerned ~~x~~ that is a very good rule,and one to be applauded ;but for the purposes of this case I have quoted it here,and asked you to answer it? A-Well I have to the best of my ability. It is merely a matter of instruction,and it is also in harmony with the revelations to be found in the first book of covenants.

888 Q-Does the revelation in the first book of covenants,to which you refer,prohibit the use of tobacco entirely? A-No sir not entirely. It is called a word of wisdom by way of instruction and not by way of constraint,for you can use it for sick cattle,and for bruises.

889 Q-But does it not permit the use of a small amount for ~~xxxx~~ a man A-I think not,-not to chew or smoke I think.

890 Q-That is your recollection? A-Yes sir. It is not an imperative command.

891 Q-Does this law to which you refer have anything to say about the use of ornamentation for the person? A-Yes sir it says let your ornamentation be the work of your own hands, It says that it should be the workmanship of your own hands,but does limit the amount,-~~that~~ leaving that to the individual taste.

892 Q-Is the word"ornament"used? A-I think it is"ornamentation." but it may not be it may be "embellishment",

893 Q-Now Mr Smith in the examination of this question of doctrine,- or I should ~~xxxxxx~~ say this question of the doctrine of the revelation,-I conceive it to be necessary in the examination of the doctrine of revelation as it has been presented here to ask you how these revelations from God are received?

By Mr Kelley,-"Hold on don't answer until I get through with the objection. I object to that question in the first place because it is improper examination,it is incompetent,irrelevant and immeterial and is a matter that does not have the slightest connection to the question at issue in this case either directly or indirectly."

By Mr Southern,-

894 Q-Well you may proceed to answer that question? A-Revelations as I understood,or understand it are received in different ways. Sometimes by impression,-sometimes by the person becoming conscious of it,and sometimes by an audible voice heard by the individual by whom the revelation is received,and sometimes by a direct messenger,and sometimes by what we understand to be the intervention of the Spirit.

895 Q-How is that men when he becomes conscious of a thought or inspiration,that it received from without,-~~xxxxxxxx~~ whether it is it is a revelation from without or a suggestinn from within?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is irrelevant and immeterial and incompetent,is not proper cross examination,and calls for an opinion of the witness.

A-Well it is pretty difficult to tell.

896 Q-What is that? A-I said it was probably difficult to tell. Each person who receives a revelation would have to judge as to that himself.

897 Q-Is it not a matter ~~xx xn xix~~ of his own judgement as to whether or not it is a suggestion from without or one from within?

A-No sir, not at times.

898 Q-There are exceptions to that rule then? A-Yes ~~xir~~ sir as there is to all rules there is exceptions I suppose to this. Now when a man hears a voice he knows he hears it,and so that must be a suggestion as you call it,from without.

899 Q-How does a man know when he hears a voice from without that is the voice of God,and not the voice of some other,-a voice from some human scource? A-I don't know how the man would tell in every instance.

900 Q-How could he tell in any instance? A-It would be according to the surroundings and conditions.

901 Q-Then as a mater of fact it is amatter of judgement with him as to whether or not it is the voice of God he hears,or a voice of some other character? A-He must base his own action on what he hears, -it must be on his judgement as a matter of fact. As a matter of course it must be based on his judgement,for that is all he has to guide him.

902 Q-Then when a revelation is received from some direct agency as you suggest,how can the recipient tell you that that voice is from God or some other scource? A-He will have to decide from the circumstances under which that communication was received. He will have to decide as to its intent,and objects of course ,and so far as we are concerned by its relation to what we have already received abd accepted as the word of God

903 Q-So the ultimate outcome of the whole matter is that the mans own best judgement is the guide or judge as to whether or not

a revelation when received comes from within or without or whether it is the word of God? The whole thing rests on his own best judgement after all? A-No sir I do not so understand it. If any body says anything to me I understand that they say it,and if I hear what they say clearly,and apprehend it,it is not a matter of my judgement as to whether I accept it or not. I am forced to accept it and my judgement as to whether or not I heard the thing is not called into requisition for it is a matter that is not involved in doubt at all. Whether I accept it depends on circumstances such as whether there is a reason for it or occasion for it ,or whether it comports with what he has already said upon the same subject if he has said anything to my knowledge.

904 Q-May not a man,though in the Presidency of the church,be mistaken as to these matters? A-What matters?

905 Q-As to the genuineness or authenticity of revelations he purports to have received? A-Yes sir.

906 Q-Then is it not a fact that these revelations are not accepted by the church,-by the re-organized church of Latter Day Saints until they have been adopted by the Assemblies and approved by the quoroms? A-I hardly think that I apprehend that question Colonel?

907 Q-I asked you if these revelations,laws and rules of the church or what purport to be laws and rules of the church revealed through the instrumentality of revelations,-are they regarded as revelations or laws or rules of action to the church of which you are the President now,until they have been formally adopted by the church as such? A-No sir they are not binding ,-they are subject to consideration and examination.

908 Q-But they do become laws of the church,when they are accepted by the church as such? A-When they are accepted by the church they become binding upon it.

909 Q-Then is it not the law of the church ,-of the re-organized church of Jesus Christ of Latter Day Saints that new revelations may be given,and they may be accepted by the church,and thereby become laws of the church? A-Yes sir.

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immeterial,not cross examination,and calls for an opinion of the witness.

910 Q-That can be done? A-Yes sir that is done, Under our declaration of faith we believe that God has revealed Himself in times past,that He does reveal Himself and will continue to reveal Himself to men upon this earth whenever such revelations are needed according to His divine judgement. We believe this for we know it to be so,and we therefore look for further revelations in the future at such times and places and through such instrumentality as He sees fit to make the medium of His communication to this earth.

911 Q-Then is itn not a fact that the church that existsed from 1830 up to the time of the disruption in 1846 or 1847,had none of these subsequent revelations as its law? A-Of course they did not have any that were given subsequent to that time,nor those given to the re-organized church.

912 Q-Is it really a fact that the church from 1830 to.1834 had the same rules and laws of doctrine as are to be found and set forth in the 1835 editinn of the book of doctrine and covenants? A-I could not tell you that.

913 Q-Well according to the theory of inspiration and the theory of

imparting it and making laws for the church, could it have had the laws that were given by revelation after 1835, of after 1834, I mean,-that is could the church from 1830 to 1834 had the now revelations that were given after 1834, as the laws of the church? A-I think so,-if they were received and accep-ted by the same body.

914 Q-Could that body have been governed by laws that were passed afte-rwards? A-At that time?

915 Q-Yes sir? A-No sir It could not be governed by the law prior to the time of the passage of the law. That is a self evident fact I think. It would be like attempting to governa territorial community under a state law, that is something that could not very well be done, for at that time, or prior to that time the church was in what might be called its formative period, for the laws were being revealed and formulated by which it was to be afterwards governed.

916 Q-Is it not a fact that law is only emforced after it is enacted? Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent and immeterial and for the additional reason that the question calls for a legal conclusion of the witness.
A-Yes sir, I so under stand that to be the fact.

917 Q-Well is that not the fact with a law of the church? A-We may receive a revelation and act upon it, and the matter afterwards be submitted to the body authorized to pass upon the revelation, and it would be sanctioned. That has been done in the church.

918 Q-Well would you be willing to state upon your oath that the church prior to 1834 acted upon revelations that were received subsequent to that date? A-I would not like to swear to that, or even make a statement regarding that condition upon my own judgement.

920 Q-Well no, I wouldn't think you would? A-No sir I would not.

921 Q-Then you do not swear to that? A-No sir.

922 Q-Well I should think you would not? A-I am not versed in hypothetical suppositions cases of that kind, but I should say that coulon't be.

923 Q-This is a controversy as I understand it Mr Smith to obtain control and possession of what is known as the "temple lot" in the City of Independence, Missouri? Is that not the fact?
A-I so understand it to be the fact.

924 Q-You are the chief officer of the church which claims to bring the action? A-Yes sir.

925 Q-Now sir can you tell me what right the church has that was re-organized in 1852 as you claim, has in and to that temple lot? Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompe-tent, irrelevant and immeterial, not cross examination, and calls for a legal opinion or conclusion of the witness.

926 Q-Will you state whether the Re-organized church of Jesus Christ of Latter Day Saints has ever paid one dollar for or on account of the temple lot in the City of Independence Missouri? Counsel for the plaintiff objects to the question for the reasons and on the grounds that are urged against the last question asked the witness to which objection was taken, and also on

the additional grounds that the question does not call for the best evidence of the fact about which the witness is questioned.
A-My answer is that so far as my knowledge goes the re-organized church has paid money out on account of that temple lot and to-day

occupying a part of that temple lot,-I don't know how large a portion,but it is by metes and bounds. I believe that is the fact that they are occupying a portion of that temple lot
927 Q-Do you s tate that as a positi ve fact? A-I state it as my best knowledge and belief.
928 Q-Do you mean a part of thex ground or land that is in dispute im this case? A-I don't know that I do.
929 Q-So then as a matter of fact you don't know that tecre-organized church of Jesus Christ of Latter Day Saints of which you are thePres ident and head,ever paid a dollar of money for or on account of the land in controversy in this case?
Counsel for the plaintiff objects to the question asked thewitness on the ground that,the same is not cross examination,and is incompetent,irrelevant and immeterial a to any of the issues involved in this case.
A-I don't know that the church has ever paid anything in that way unless it is that it has xx paid taxes.(???) a portion of the
930 Q-Mr Smith do you know whetheror not any body has ever paid a doll -ar for the land in controversy or on it in any way,for the Re-organized church of Jesus Christ of Latter Day Saints? A-No sir.
Counsel forthe plaintiff objects to the question asked the witness for the reasons and on the grounds that it is improper cross-examination,incompetent,irrelevant and immeterial,and calls for an opinion of the witness.
931 Q-Now Mr Smith do you know of any revelation that will authorize the re-organized Church of Jesus Christ of Latter Day Saints to take the property from pther people who have paid there money for it,and not give them anything in return? A-No sir.
932 Q-If they can? A-No sir I do not.
933 Q-You do not know of any revelation to that effect? A-No sir.
934 Q-Mr Smith I believe you are one of the Incorporators of the Plain -tiff in this case? A-Yes sir.
935 Q-Where do those Incorporators reside? A-Well I believe the most of them reside there at Lamoni Iowa?
936 Q-Most of them reside there at Lamoni? A-Yes sir.
937 Q-Well if there are not any of the Incorporators that do not reside at Lamoni,Iowa where do they reside? A-Well sir I could not tell you.
938 Q-Is there no way by which that fact can be asertained? A-I could not tell you without examining the names.
939 Q-Well please examine the names and state where they all reside,-each and every one of them,if you know? A-(witness takes the copy of the articles of incorporation attached hereto as Exhibit A and answers as follows)E.L. Kelly resides at Lamoni ,B.F. Nicholson at Lamoni. W.W. Blair at Lamoni, Iowa.Robert xxxxxxxxxxxxWim ing resides at St Joseph,Missouri. Alexander Hale Smith resides at Lamoni,Iowa.Robert at M. Elvim resides at Lamoni,Iowa. C.H. Burroughs resides at Lamoni,Iowa. D.F. Crane also resides at Lamoni Iowa.Jasper H.VanMeter at Lamoni Iowa.Edwin B. Stafford at Lamoni Iowa. S.D. Shippy xx resides at Lamoni Iowa.D.D. Young at Lamoni Iowa.Ed Weedmark at Lamo- ni,xxxxx A.K. Anderson at Lamoni,Seth M Bass at Lamoni.George Derry at Lamoni. J.B. Van Meter now lives at Kellerton,Iowa. that is a place five or six miles west of Lamoni.William Anderson at Lamoni.John Traxler at Lamoni. Emeline A.Elvin at Lamoni.Minnine A.Anderson at Lamoni. Samuel Ackerly at Lamoni J.P.Dillion at Lamoni. David Dancer at Lamoni.Edwin A.Blakes-ly at Galien,Michigan.Asa S.Cochrane at Lamoni.Joseph Smith at Lamoni,and Henry A. Stebbins also at Lamoni. That is all of them I believe.

S.P. Bass at Lamoni

Elvin Lovell at Lamoni

940 Q.-Did these people whose nzmes you have read,and whose residence you have given,incorporate by ~~xxxx~~ authority,-did they incorporate of their own free will and accord,or by authority conferred upon them?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that the same is irrelevant and immeterial,is improper cross examination,and is not the best evidence of the fact sought to be proven.

941 Q.-What is your answer? A-What is the question?

942 Q.-Did thepeople incorporate of their own accord,and if not upon or under what authority did they incorporate? A-They incorporated of their own accord by direction of a general conference,or by permission or instruction of a general conference of the church.

943 Q.-What general conference. Will you please point it out to me? A-I think it is in there(referring to the articles of incorporation).

944 Q.-What I want to know is what general conference is was that gave this permission,or direction, or authority,whichever it was? A-I think it was the spring conference of 1890 but I am not sure of that. I would not be positive as to that,but I think that was the conference it was.

945 Q.-Have you the minutes of that conference here? A-I do not know whether they are here or not. I haven't them I know.

946 Q.-Well in that action were these parties whose names appear written here,authorized by name to incorporate? A-No sir they were not.

947 Q.-Why was that not done? A-Well sir it was not ne cessary. The majority of them were residents and living there at Lamoni, and were members of the church or branch there,and they were there present at the meeting at the time ~~of the~~ this incorporation took place,and signed the Articles of Incorporation.

948 Q.-At what meeting was that? A-The meeting held there at Lamoni for that purpose.

949 Q.-At a meeting of the local church or branch at that place? A-Yes sir,of the local organization.

950 Q.-They met for that purpose? A-Yes sir.

951 Q.-Were they authorized by that meeting to Incorporate? A-They proceeded to adopt the Articles of Incorporation at that meeting and signed them at that meeting,and I believe that every member that was present at that meeting signed them.

952 Q.-How was that meeting called? A-It was a regular meeting of the branch.

953 Q.-What do you mean when you say a regular meeting of the branch? A-I mean a meeting of the branch that is held at regular intervals,-a regular fixed meeting,the time of the holding of which is fixed. It is a meeting that is held for the ~~regular~~ transactinn of the regular routine business of the branch

954 Q.-When was this meeting called? A-Saturday afternoon,-Saturday evening. It was a stated meeting and notification had been given of what would take place.

955 Q.-It was assembled by the~~k~~ ~~xxxxx~~ members of that local branch at Lamoni? A-Yes sir.

956 Q.-And a resolution was passed at that meeting authorizing these gentlemen to effect this incorporation did they not? A-No sir that was done by the conference,but the articles of incorporation were presented to the meeting and were adopted by the meeting.

approved and gigned up upon such adoption.
957 Q-The people did that? A-Yes sir.
958 Q-What people did that? A-Those present.
959 Q-Well were these names that appear here the names of the people who were present and who signed these articles of incorporation? A-Yes sir.
960 Q-Was there any body else present except those who did sign these articles of incorporation? A-Not that I knowof. I think every member present signed them.
961 Q-To what tribunal did they then apply for incorporation? A-Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial,and does not call for the best evidence,as the paper which the counsel who propounds the question shows for itself all about that.
962 Q-Answer the question? A-After the articles were accepted and signed,the articlex was filed in the court of the county.
963 Q-And this paper here,-this one(the original)you recognize as the original? A-Yes sir.
964 Q-And your name is signed to it? A-Yes sir that is the original and my name is signed to it.
965 Q-Each of the parties whose names arex attached hereto signedx their own names? A-I think so. I think most of them were signed there in my presence,but some of them may have been signed in the presence of the Notary Public and those of course I did not see.

By Mr Kelley,-
966 Q-You said that article of incorporation was filed in the county court. Now were you not mistaken about that. Did you not mean in the County Recorders office,-did you not mean that that was where it was filed? A-Well the court records are kept there. There is a little difference in the organization of countoes in Iowa from what it is here in Missouri or in Illinois,and I get a little confounded some time on that account,xnot being familiar with the way it is done in our state.

By Mr Southern,-
967 Q-The greater number of the persons who signed here were members of the local church at Lamoni? A-Yes sir.
968 Q-Did any sign who were not members of that church? A-Yes sir.
969 Q-Who signed it who were not members of the church at Lamoni? A-Robert Winning,Mr H. Kelley and Mr Blakesly.
970 Q-Mr Winning is in St Joseph? A-Yes sir,he is in business and resides there.
971 Q-Mr Smith is there a presiding high priest over the high priesthood,and recognized by the re-organized church? A-Yes sir
972 Q-Is there one now? A-Yes sir.
973 Q-Who is that person? A-Myself.
974 Q-When were you ordained to that office? A-Aprix In April 1860.
975 Q-You were ordained you say in April 1860,-where were you ordained A-I was ordained at that time at Amboy,Lee county,Illinois.
976 Q-That was at the conference held at that time? A-Yes sir.
977 Q-You were ordained twice at that conference? A-Yes sir.
978 Q-The first ordaination was as what? A-As an high priest.
979 Q-The second as what? A-President of the high priesthood.
980 Q-That is the order in which the ordaimation took place? A-Yes sir
981 Q-Are the published minutes of that conference correct on that subject? A-Yes sir.

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97I Q.-Mr Smith is there a presiding high priest over the high priesthood,and recognized by the re-organized church? A-Yes sir
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979 Q.-The second as what? A-President of the high priesthood.
980 Q.-That is the order in which the ordaimation took place? A-Yes sir
981 Q.-Are the published minutes of that conference correct on that subject? A-Yes sir.

982 Q-The published minutes of that conference are correct?. A-I think so.

983 Q-Well I would like you to be positive if you can be,on that matter?. A-On the question of the correctness of the published minutes?

984 Q-Yes sir? A-Well I think they are,but I could not be positive on that point,however I think they are correct.

985 Q-Do you recognize that as a copy of the official.publication of the minutes of that conference? A-That is a copy of the Herald published in May 1860.

986 Q-Do you recognize the publication of the minutes of that conference therein contained,as the official publication of the same A-As it appear here?

987 Q-Yes sir? A-No sir that is a copy of the publication as it appeared in the Amboy Times,-a local paper.

988 Q-Will you look at these proceedings,entitled"monutes of the Conference",and state whether or not they are the correct minutes of that conference or not? A- I could not tell you as to their correctness. They were the minutes as presented to the Herald,and published by Mr Isaac Sheen,who was clerk of the conference,and also editor of the paper at the time,but whether these minutes in this report is correct or not that is something I cannot say positively.

989 Q-Will you turn to the minutes of that conference in the record here entitled exhibit N,and point out the references to your ordination as they appear in the minutes of that conference? A-Yes sir. There are two references. One on page fifty nine and the other on page sixty.

990 Q-Read the two references please? A-"Joseph Smith,son of Joseph Smith the prophet,seer and revelator,and lineal heir to said office and station,according to the law of the holy priesthood was then introduced to the conference,and he delivered an address,explanatory of his views,principles,doctrine and faith. On motion of Isaac Sheen it was resolved that brother Joseph Smith be chosen prophet,seer and revelator of this church of Jesus Christ and the successor of his father".

991 Q-That is the first? A-Yes sir.

992 Q-Now the next one,-where is it? A-It is on page sixty,-"By unanimous vote,Brother Joseph Smith was ordained President of theHigh Priesthood of the Church by Brothers Z.H. Gurley and William Marks."

993 Q-You find reference there Mr Smith I believe to but one ordination? A-To two.

994 Q-To two? A-Yes sir.

995 Q-Well I did not so understand it from your reading? A-Well yes sir I believe it is but one, The two ordinations took place however at the same time,but they are reported as one. I was ordained first as high priest and then President of the high priest hood subsequently.

996 Q-Then the minutes don't show the ordination as presidinghigh priest of the priesthood do they? Do they show that? A-I think so,but just wait a moment and I will tell you(witness refers to exhibit N,and answers)Yes sir.

997 Q- Well do they show an ordination to the priesthood? A-Yes sir I think so.

998 Q-Well I think you read of but one ordination? A-Well that is all right.

999 Q-How could there me an ordination to the Presidency of the priest

hood without their first being an ordination to the priest hood . Is that not a fact that there could not be an ordination to the Presidency of the high priest hood without there first being an ordination to the high priest hood? A-I hardly think it would be proper,but in this case I know that I was ordained an high priest. There is no manner of doubt of that,and afterwards ordained to the Presidency. I know that as well as I,know anything that ever happened in my experience.

I000 Q-Please state whether both ordinations were simultaneous,or whether there was a lapse of time between them? A-The one took place before the other.

I00I Q-Was there any proceedings of any kind intervened? A-I think so,- did you ask if there was anything intervened?

I002 Q-Yes sir? A-I think not.

I003 Q-Is that fact shown by the minutes? A-It don't appear to be.

I004 Q-It is not shown by the minutes? A-It does not appezr to be,- that is as far as I have examined the minutes it does not appear to be.

I005 Q-Was there a motion made,and a vote taken, on that motion to ordain you a high priest at that conference? A-I couldn't say whether there was or not.

I006 Q-Well was there or was there not? A-I say that I cannot say. My impression is that there was,but I.could not say positively whether there was or not.

I007 Q.Were you chosen after your ordination as an high priest,from among the high priest hood,to be ordained the presiding high priest of the high priest hood? A-I would not say that I was with that formula.

I008 Q-Do you recognize what I am now going to read from Exhibit J, one page two ninty one,paragraph eleven as a law of the church on this subject,-"Of necessity,there are presidents or presiding offices,growing out of,or appointed of,or from among those who are ordained to the several offices in these two priest hoods. Of the Melchisedeck priest hood,three presiding high priests,chosen by the body,appointed and ordained to that office,and upheld by the confidence,faith and prayer of the church,form a quorom of the Presidency of the church". Do you recognize that? A-Yes sir.

I009 Q-As what do you recognize? A-I recognize it as a rule for the government of the church.

I010 Q-A rule for the government of the church? Is that what you said? A-Yes sir,that is what I said.

I0II Q-Do you recognize this also as the law in paragraph thirty one on page two hundred and ninety four of Exhibit J,-"Wherefore it must needs be that one be appointed of the high priest hood to preside over the priest hood;and he shall be called President of the high priest hood of the church. From the same comes the administering or ordinances and blessings upon the church,by the laying on of hands". Do yourecognize that as a law of the church? A-Yes sir.

I0I2 Q-And this also on page two hundred and ninety seven of the same Exhibit,which reads as follows,"And again,the duty of the President of the office of the high priest hood, is to preside over the whole church,and to be like unto Moses. Behold here is wisdom,yea,to be a seer,a revelator,a translator and a prophet,having all the gifts of God which he bestows on the head of the church". Do you recognize that as being the law of the church upon

that subject? A-Yes sir.
1013 Q-Well are you your father's successor in this office? A-Yes sir
1014 Q-You are you/fathers successor? A-Yes sir I understamd I am,
It is so understood by,the church to which I belong,that I am by his choice.
By Mr Kelley,-"I object to that questionon the ground that it is incompetent and immeterial,not cross examination,and calls for a conclusion of the witness,and I move to strike out the answer for the same reasons.
1015 Q-Are you then a prophet,seer and revelator?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immeterial,not cross examination,and calling for the opinion of the witness.
A-I am in a position to exercise those gifts if required,and directed to do so.
1016 Q-Those gifts and functions? A-Yes sir.
1017 Q-Under what conditions? A-Whenever directed so to do,-or required so to do.
1018 Q-Then Mr Smith have you the keys of the kingdom as conferred upon your father?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immeterial,and is improper cross examination,and calls for an opinion of the witness.
1018 Q-Please answer the question,-have you the keys of the kingdom as conferred upon your father? A-I do not knowthat I have,if I understandwhat you might mean by the word "keys",
1019 Q-What do you understand the word"keys"to mean in connection with the priest hood of the re-organized church of Latter Day Saints?
Counsel for the plaintiff objects to the question asked the witness on the ground that the same is irrelevant,incompetent and immeterial,and is not proper cross examination,and calls for an expression of the witness.
1020 Q-Do you understand the question? A-Yes sir. I simply understand it to mean the possession of the right of authority. There is a controversy among the people as to what the "keys" do mean. The right to act properly is my understanding of it.
1021 Q-That is your understanding of it? A-Yes sir.
1022 Q-Have you the keys of the mysteries,-these things that are concealed?
Counsel for the plaintiff objects to the question for the reasons and on the grounds set forth in the objection to the last question to which objection was made.
A-Not that I am aware of.
1023 Q-You have not?A-Not that I know of.
1024 Q-Mr Smith really are not,-were not these keys referred to,the Urrim and Thumim?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons thatit is incompetent,irrelevant and immeterial,is not proper cross examination and calls for an opinion of the witness?
A-I do not know.
1025 Q-What is your answer? A-I do not know?
1026 Q-Any how you have not the Urrim and Thummim?
Counsel for the plaintiff objects to thequestion on the same grounds

as are set forth in the last preceding objection.
A-Do you ask that as a question,or make it as an assertion?
I027 Q-Well never mind,-let that pass,-Now Mr Smith have you the Jaredite interpreters? A-I have not.
I028 Q-Then I am prompted to ask you this question Mr Smith. How can you be a seer without these things?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and imeterial,and for the furthe r reasons that it is improper cross examination,and calls for an expression of opinion from the witness.
I029 Q-Can you answer that question? A-Yes sir but my answer would be merely an expression,and that would hardly have any value in a court of equity.
I030 Q-Well you may answer it in your own way? A-A seer may exercise the privelege or provine of seeing by virtue of inherent quality. That may belong to any person,as is proven by the many instances we have of that power or gift.
I03I Q_Do you recognize what I am now about to read from the book of Mormon,chapter five,paragrah ten of the book of Mosiah,as follows,-"Now Ammon said unto him,I can assuredly tell thee, O king,of a man that can translate therecords;for he has wherewith he can look and translate all records that are of ancient date,and is a gift from God.. And the things are called interpr ters;and no man can look in themexcept he be commanded,lest he should look for that he ought not,and he should perish. And whoso is commanded to look in them the same is called seer.And behold the people who is in the land of Zarahemla,is the man that is commanded to do these things, and who has this high gift from God. And the king said that a seer is greater than a prophet. And Ammon said that a seer is a revelator and a prophet also;and a gift which is greater can no man have,except he should possess the power of God which no man can;yet a man may have great power,given him from God. But a seer can know of things which are passed, and also of things which are to come.;and by them shall all things be revealed,or rather,shall secret things be made manifest,and hidden things shall come to light,and things which are not known shall be made known by them,which otherwise could not be known. Thus God has provided a means,that man,through faith,might work mighty miracles;therefore he becometh a great benefit to his fellow beings". I ask you now if you recognize that as a law of the church with reference to the office you have just testified you held? A-We regard it precisely as it purports to be,and for what it purports to be,-the statements made by two persons,-one the king and the other a man called Ammon giving his statement in regard to it It is merely a matter of instruction to us.
I032 Q-Are those statements which I have just read regarded as true by your church? A-I could not say any further than I have stated,-we regard them as the statements of individuals purporting to make the statements as they appear in the book itself.
I033 Q-Does your church look upon these as revelations? A-They look upon the whole book as a revelation.
I034 Q-Including the part that I have read? A-Yes sir,the whole book, including what you have read.
I035 Q-What did you say it was,-the part I have read? A-It is just what it purports to be a narration of what was said by these two people at that time,-the king and Ammon.

I036 Q-Now then have you ever exercised the duties of a seer? A-No not by the interpreter,for I have never been called upon to do it,I have never been commanded to do so.

I037 Q-Can you be a seer without the commandments?

Counsel for the plaintiff objects to the question asked the witness on the ground that it calls for an opinion of the witness,is not cross examination,and is incompetent and irrelevant.

I038 Q-Can you be aseer without the commandments is the question? A-Yes sir a man can be a seer and cannot exercise the office or gift except by commandment.

I039 Q-Do you state that since you have been President of the re-organized church of Latter Day Saints,there has been no necessity for the exercise of that function? A-I will not say as I do not know whether there has been or has not been any necessity for it. I am not the one to determine as to the character of the necessity.

Counsel for the plaintiff objects to the question asked the witness and moves the court to strike out the answer on the grounds that the question to which it is a reply is incompetent.and immeterial,is not cross examination,and calls for an opinion of the witness.

I040 Q-Have you not stated repeatedly in this cross examination,when asked concerning these matters,or when asked concerning matters that you did not have any knowledge concerning,that you did not know? A-Yesx sir.

I041Q-You have said that? A-Yes sir I have said that when asked concerning matters of which I did not have any personal cognizance.

I042 Q-Well if your are a seer,and holding that office,why do you make that kind of an answer?

Counsel for the plaintiff objects to the question asked the witness on the ground,and for the reason that the same is incompetent calls for an opinion of the witness, and is not cross examina-tion,

A-Simply because the matter spoken of had never been brought to my knowledge.

I043 Q-And therefor you are not prepared to answer,-Is that it? A-Yes sir. What is or has been brought to my knowledge or comprehension in any way,that matter I am prepared to make a statement regarding it,but not otherwise.

I044 Q-I believe from your testimony you stated that you have been Pres-dent of the Re-organized Church of Jesus Christ of Latter Day Saints for about thirty years? A-Yes sir,a little over thirty years,-since April I860

I045 Q-And in all that time these questions pertaining to the functions of a seer have never been raised have they?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent,irrelevant and immeterial,is not proper cross examination.

A-The question has been raised and discussed frequently so far as my experience goes by a great many,but I have never taken any special part in the discussion.

I046 Q-Do I understand you to say that you have never exercised the functions of a seer? A-Not with these interpreters as you read from the book.

I047 Q-Why haven't you exercised the functions if you are a seer? A-Simply because I have never been commanded so to do.,and never had the articles in my possession to use them.

I048 Q-Mr Smith were you called by revelation to the office of seer?

Counsel for the plaintiff objects to the question asked the witness

on the grounds that the same is irrelevant and immeterial,is not proper cross examination,and asks for an opinion of the witness.
A-I could not tell you that I was subject to my own conscious-ness. I can state as to what I felt,but what others thought about it I cannot say. What others may have done,or what it was to others I cannot say.

I049 Q-I believe you testified that you were ordained by myour father to have and hold all the functions which he,your father,held?
A-No sir.

I050 Q-You did not? A-No sir. I did not so state it.

I051 Q-You did not,and that you testify to? A-Yes sir that is what I say. I did not so state it.

I052 Q-Well were you ordained as your fathers successor in all things?
A-I was not ordained by my father.

I053 Q-Well how was it? A-According to my understanding of the meaning of the word "ordained",I was not.

I054 Q-You were not ordained by your father? A-No sir I was blessed by him and designated,-well in a sense chosen,and the word ordained could not be applied in any other sense than by the act of pointing out or indicating only,and he indicated or designated me as his successor.

I055 Q-You said that you were blessed by your father,-were you called through that means or xxxxxxx by that blessing? A-I do not know what significance you might artach to the word"call",but I,understood it at the time,and understand it now to have been a blessing he conferred upon me in the event of a necessity therefor,and by the act conferring certain priveleges upon me,or to designate me to do certain work,-depending as I understood it then,and understand it now,upon good behavior, and upon any subsequent call I might receive.

I056 Q-Do you recognize yourself as the successor of one mighty and strong,as revealed in the revelation to your father?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is not proper cross-examination,is incompetent and immeterial,and calls for an opinion of the witness.
A-I cannot answer that question sir.

I057 Q-Why cannot you answer it? A-I have already said why. I have already stated why I cannot answer it.

I058 Q-Have you not claimed the office which you now hold as from,-or rather as a succession from your father,and that you have a right by lineal descent to it? A-I claim to be his successor by lineal right,and by his blessing,and lastly by the right of selection and appointment.

I059 Q-By right of appointment you also claim it? A-Yes sir.

I060 Q-Is it a birth right then,to be the President of the church?
A-No sir,not necessarily.

I061 Q-How does that come then? A-It comes by virtue of fitness and qualification,-I might say good behaviour and the choice of the people,recognizing a call,xxx or a right.

I062 Q-Now Mr Smith,does lineal right assume these qualifications?
A-Not necessarily.

I063 Q-And did it in your case? A-Well I can't say. That is a matter I apprehend to be proven.

I064 Q-Was the doctrine of lineal right a doctrine of your churchx prior to the death of your father? A-I could not tell you. I do not know other than what may be found in the books,and they are

open to the inspection of all. I know that there is a kind of a traditional teaching to that effect there.

1065 Q-Is it a lineal right in your church? A-Nothing further than what is found in the books based on tradition, The right of the first born is found in the Book of Mormon and also in the bible.

1066 Q-What right is that? A-The traditionalright of the first born to whatever may attach to the parent.

1067 Q-Is that right expressed or understood in such a way that your office or whatever rights you hold by virtue of your office, or whatever powers you hold or are gifted with by reason of the position you hold, would descend to your eldest son?A-I will answer that by say ing yes,with the qualification that all other things are equal..The same attaches to the first born of every family to whatever may appertain to the sire.

1068 Q-What other claim is there,if any,of there-organized church,to the succession to the church which existed up to the time of your fathers death,if it be not a lineal claim through you as the successor of your father.? A-It is the claim of the individuals who were members of the church at his death,and hold their membership,and their rights to be as regarded as members of the body in the re-organized church.

1069 Q-Do you regard you lineal successorship as one of the cla ims? A-No sir,not necessarily in the re-organized church. The existence of the re-organized church does not depend on my lineal successorship as I understand it.

1070 Q-I believe as you stated that you have not seen the records of the church that were kept from 1830 down to.1844? A-No sir.

1071 Q-You say that you never have seen them? A-Yes sir.

1072 Q-And you do not know where they are? A-Yes sir,I don't know anything about them,with the single exception that I told you about.

1073 Q-What was that exception? A-The minutes of one of the Quoroms of Elders.

1074 Q-Have you ever seen the reports of Edward Partridge? A-What reports?

1075 Q-The reports of his accounts as Bishop of the Church? A-No sir.

1076 Q-Did you ever see a publication of the same in any of your standard publications? A-I do not remember that I ever did. If I everdid I do not now remember it.

1077 Q-Was there, or was there not,an officer in the old church,called or designated as the patriarch,-the officer of Patriarch? A-Yes sir.

1078 Q-There was such an office? A-Yes sir,along towards the latter times of the church there at Nauvoo there was.

1079 Q-What were the functions of that office? A-The office of Patriarch?

1080 Q-Yes sir? A-As I understand it he was an evangelical minister. As kind of a local Patriarch.

1081 Q-Is there such an office in the re-organized church? A-No sir.

1082 Q-There is no such an office in the re-organized church? A-No sir we have no patriarch. There is a provision in the organic law of the church for the office but we have no patriarch ordained.

1083 Q-Is the right to that office a lineal right or not? A-Itis the same as the other,-subject to the qualification that all other things are equal and the test of personal fitness.

1084 Q-It is the same as in the office of the president? A-I made the suggestion awhile ago,or the statement I should say,that it does not simply inure to one,but it attaches to all eldest sons.

1085 Q-Of all whoare officers of the church? A-Yes sir. Everybody. Every family. Whatever right belongs to or pertains to the sire descends to the son,all other things being equal. It is not a right that must be enforced,for it may never be exercised or it ma y be held in abeyance.

1086 Q-Is that a rule in the re-organized church? A-That is a traditional rule of the church.

1087 Q-It is laid down in the teachings of the books of the church? A-Nothing more than what appears in the bible and the book of Mormon,and it also appears in the book of covenants.

1088 Q-Is that a principle that appears or was practiced in the church prior to the death of your father? A-I could not tell you that.

1089 Q-You cannot say whether that is the factor is not the fact? A-No sir.

1090 Q-Has the re-organized church of which you are the head,a book of rules that pertain distinctively to that church? A-Yes sir.

1091 Q-Is that book here? A-I do not know whether it is or not. I don't know that there is a copy of it here.

1092 Q-Was there such a book in the old church? A-I have in my library Jefferson's Manual that was used by the parliamentary people of the church.

1093 Q-How did you get that book? A-It was in my fathers library,and came to me in that way.

1094 Q-But your book of rules is not Jefferson's Manual? A-No sir. It is a book that was compiled by the authority of a committee of the conference,and appointed by the conference for the purpose of compiling a book to govern in debates,public meetings ,etc,and when the book was compiled it was accepted by the church.

1095 Q-Have you a school for the prophets in the re-organized church? A-No sir,-it is not so designated.

1096 Q-Was there such a school in the church prior to the death of your father? A-I understood or understand there was at Kirtland but I cannot say whether there was one in Nauvoo or not. I cannot testify to that as these things are a matter of histor -y,and that is where I get my information.

1097 Q-Have you any means of determining whether the system represented in the higher grades of the church are the same x in the re-organized church as were in existence in the old church before it was dissolved? A-No sir,I don't know that I have.

1098 Q-You haven't sufficient knowledge to state whether that was the fact or not? A-My knowledge in regard to the customs of the old church is derived principally from reading and what occured during my boyhood.

1099 Q-Have you a corps of twelve apostles in the re-organized church? A-Wexhave a body called the apostles,but they are not twelve at present. They are not twelve in number at present,but we have the body.

1100 Q-Has the re-organized church ever had twelve? A-No sir,not the full number of twelve.

1101 Q-Did the old church ever have a full number of twelve? A-I believe they had.That is my understanding.

1102 Q-And the old church had that full number at the time of the death of your father? A-I think so.

1103 Q-What are the functions of the twelve? A-They are travelling

ministers whose duty it is to travel and preach,-itinerant,-take charge of the ministerial work.

II04 Q-That is their duty? A-Yes sir.

II05 Q-And that was their duty in the old church prior to the death of your father? A-Yes That is what I understand.

II06 Q-Is their work not of primary importance in the church? A-Yes sir as spiritual ministers they are. I might say that they were the leading quorom in the church,and their work was of necessity of great importance to the church and its welfare. So far as the work of preaching was concerned they constituted the leading quorom in the church

II07 Q-Is it not a fact that the twelve,or nearly all of the twelve that constituted the quorom of twelve at the time of your fathers death,afterwards went with Brigham Young to Salt Lake City? A-I believe they did.

II08 Q-Do you know how many of them went to Salt with Brigham Young to Salt Lake City? A-I believe nine of them did.

II09 Q-Then Mr Smith if nine of the twelve went to Salt Lake City,with that part of the organization that went to Utah,and the eldest son of the officers in the church are entitled to the succession,how would it be possible for you to ever get a twelve in the re-organized church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent and immeterial,and not the best evidence or nor proper cross examination and calling for an opinion of the witness.

A-The history states that there was a number appointed of the new organization. Now I am only stating what history states was done,and when this was done seven were chosen from among the people,or the elders or ministers present,and they were chosen and set apart to act in the apostolic office.

III0 Q-At what time? A-I could not say.

III1 Q-Well was it since I852'? A-Yes sir.

III2 Q-It was since I852?. A-Yes sir,and it may have been at that conference of I852.

III3 Q-What right have you to do that if the oldest son succeeds to the funtions of the father,and nine of the twelve apostles went to Salt Lake? A-Well sir we had the right simply because the conditions had changed and were not equal. The right of the son to succeed to the right office or function of the father or sire,does not depend upon his lineal descent a lone,-it it has a co-dependence that is the fitness and moral qualification of the son to succeed the sire. In this case other things besides the question of lineal descent were not equal.

III4 Q-Other things were not equal? A-No sir.

III5 Q-What was the matter,wherein were not other things equal?

A-The ones that went west to Salt Lake Valley were preaching and openly proclaiming and practicing a doctrine entirely contrary to the fundamental principles of the church,and all its teachings,and they who re-organized the church in I852 re-pudiated that,doctrine and it is not likely that in the re-organization they would ordain the sons of men who were preaching a false and pernicious doctrine.

III5 Q-By what right did they assume to do that? A-By the inherent right of man hood and humanity to assert their opinions and defend their principles and rights. That was the right sir and the people who met together in I852 and re-organized the church asserted that right by maintaining,or rather re-establishing the church in its purity.

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III6 Q-So the~~re~~ right did not come from ecclesiasticism? A-Yes sir they had the ecclesiastic ~~xxxxxxxxxx~~ right the same as they always had. Their hope of salvation depended on the proper and pure exercises of these functions,and they are responsible to God and not to man for the way in which they exercise the gift that God had given them.

III7 Q-Is that an assumed law,-a law that they made unto themselves or~~x~~ is it found in your standard authorities? A-Yes sir it is to be found in the books.

III8 Q-What books of authority is it to be found in? A-It is to be found in the bible,the book of Mormon,and in the bookof covenants.

III9 Q-I would be glad if you wuld point it out to me? A-You would.

II20 Q-Yes sor? A-Well I can do it. "He that loveth mekeepeth my commandments,and the same is my deciple",and also the statement of our Saviour to John"if you continue in my doctrine,then are ye my deciples indeed",and he also says ye shall know the truth,and the truth shall make you free" Now I do not know that I.can answer that question any better than I have done, for there is the fundamental principle that under lies the whole structure of the church.

II2I Q-Well I understand that,and I think it is the truth and very fine gospel,but what I want to asertain is who it is in your church who is delegated with the power to pass upon the fact as to whether or not a man has comported himself according to the law and the rules of the church? Who is entitled to be a judge. Where is the law that makes you a judge over your fellow man. I might quote some scripture too ~~xxxxxxxxxxxxxx~~ if I wanted too in that connection but I will not do so, but nevertheless I would like to know who consituted a judge to sit in judgement on your fellow~~x~~ man,and cast him out of the church? A-These people who went to Utah were addicted before they went to the practice of polygamy,and ~~xxxxxxxx~~ continued~~the~~practice practice after they go t there to a certain extent still,and that is something that is forbidden, in the books that are,authority in the church.

II22 Q-Well now what,-that is simply your opinion? A-No sir,I know it.

II23 Q-Why is it that John Taylor's opinion and judgement,for instance, not as sound as is your opinion and judgement? A-So far as ~~far as~~ his judgement is concerned it may be as sound and legal as mine concerning his own department,but when John Taylor or any other man presumes to preach and practice a doctrine contrary to the teachings of the books of the church, or the books that the church as authorized and recognized as authority,it is the right of everybody,either individually or collectively to say whether or not they shall follow his example or associate with him,or whoever preaches these doctrines that are forbidden and condemned by the church in its authorized books of doctrine and practice.

II24 Q- Did every individual have a right to pass ~~xxxx~~ upon it? A-Yes sir every individual who retained his self respect~~x~~ and integ-rity according to his judgement had the right to.pass upon it,and repudiate it if he felt so incli ed,and this is just what the re-organized church did do collectively,what the individual had the right to do by himself.

II25 Q-May it not have been the judgement of these who went to Salt Lake that they maintained their integrity by the course they took

A-Well now you are asking me to pass upon their motives or judgement and that is something I cam ot do.

II26 Q-So there has been no arbiter between you andthem,-is that not a fact? A-No sir.

II27 Q-Nothing at all? A-Nothing but thebook,-the commandments,and the law as we found it.

II28 Q-And as a matter of fact the issue between you and them has never been adjudicated has it? A-In what way.

II29 Q-Well say ecclesiastically adjudicated? A-No sir. There has been no competent ecclesiastical tribunal before which the question of heresy and orthodoxy could be tried this side of the judgement seat of Christ,but there are standards among men,especially among the Latter Day Saints ewhich are equivalent to them at least,to the judgemnt of Christ., We have the standards and the guides which are laid down as rules of action in the lives of men,and when men go contrary to that we have the right and every man has the right to refuse to follow the false teachers and leaders,and to denounce their actions and teachings.

II30 Q-Is it not a fact that when one man has a right to fix his standards of action,that another man has the same right? A-Yes sir

II31 Q-Is it not a fact that more of the people who had adhered to the church of which your father was the President during his life time,went off with those nine apostles,than remained and were afterwards re-organized into the church of which you are now the President?

Counsel for the plaintiff objects to the question askedthe witness for the reason and on the grounds that it is improper cross examination,and calls for an opinion of the witness,and not for the best evidence,and is incompetent,irrelevant and inmeterial to any of the issues in this case.

II32 Q-Is that not a fact? A-I don't understand the question?

II33 Q-I asked you if it is not a fact that more of the people who adhered to the church during the time that your father was its President went off to the Salt Lake Valley with the faction that went there with the nine apostles,than there was remained behind and afterwards united with the church of which you are now the President? A-That is a fact which Iam not competent to answer positively. I will say that it may be th fact that more went off than afterwards came into the re-organized church,but I think there was more remained behind than went to the Valley. I can however give you some data if you choose to accept it.

II34 Q-Well let us have it I will not object? A-At the time of the death of Joseph And Hyrum Smith there was something like one hundred and fifty thousand or two hundred thousand members of the church here in America and Europe and the Islands of the Sea,and there was at Nauvoo and the stake adjacent something like twenty five thousand. Now that was the number there was then and in 1850 there was something like fifty thousand there in Utah,and the census of 1880 gives us something like one hundred and forty three thousand as belonging to the entire Utah church that apostatized. Under this showing-there is a questin as to whether or not there was not more who did not go west,but who remained behind and became scattered to the four quarters of the globe. I know that we have not had all who remained behind and did not go to Utah unite with us. There is a very great many who did not unite with us,and a very great many who have gone off with different factions,and others again who have not united with any faction

of the church,but who have dropped out of it altogether.
1135 Q-There are other factions of the church you say,-What do the claim? A-Well they claim succession,-just like the one does here at Independence Missouri.,
1136 Q-Is it not an admitted fact that the Utah Church has from the time of its movement out from Nauvoo,been larger at all times than you church,-the re-organized church is now?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that the same is incompetent,and immeterial,and not proper cross examination.
1137 Q-Is that not the fact? A-Yes sir,I think probably that is true.
It being impossible to complete the taking of these depositions on this day,the further taking of the same was hereupon continued by the Notary Public taking the same until the hour of half past nine o'clock in the forenoon of tomorrow,the same being Friday,the 29th of January 1892.
Now at the hour of nine o'clock and thirty minutes on this 29th day of January,the same being Friday,and in the forenoon of said day,and being the hour to which the further taking of these depositions was continued on yesterday,come the parties as aforesaid,and the witness Joseph Smith resuming the witness stand for further cross examination as follows,-
By Mr Southern,-
1138 Q-Mr Smith do you know the name of the Utah Church,-the official name of the Utah Church?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is immeterial and improper cross examination.
A-I know the name by which it is usuall recognized.
1139 Q-What is that name? A-The Church of Jesus Christ of Latter Day Saints.
1140 Q-Do you know when that name was first adopted? A-I do not know.
1141 Q-You don't know the time of the adoption of that name? A-No sir I don't know that I could give it to you positively.
1142 Q-Do you know whether that is the church that existed at Nauvoo prior to the troubles there? A-Yes sir.
1143 Q-Is that the name of the church A-Yes sir.
1144 Q-That was the name of the church there? A-Yes sir.
1145 Q-Prior to the troubles at Nauvoo,Illinois? A-Yes sir.
1146 Q-So that the name of the church in Utah and its branches,or the churches that adhere to it elsewhere have the name of the original church,or are they known by different names?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent, and irrelevant and does not callfor the best evidence of the fact sought to be proven,but asks for an opinion of the witness,and is not cross-examination.
A-They are all called by the one name.
1147 Q-What is the difference between the name of the re-organized church,and the name of the church in Utah? A-The re-organized church has the prefix"re-organized".
Counsel for the plaintiff objects to the question asked the witness and to the answer to the question on the ground that it is immeterial and not proper cross examination,and moves the court to exclude from the record the answer for the reasons given.
1148 Q-Is that the only difference in the names? A-I believe so.

I149 Q-What church,if any,ever had the name of the Church of Latter Day Saints? A-I do not know that I can answer that question correctly- I do not know that I can answer that question accurately.

I150 Q-Well answer it as nearly as you can? A-My knowledge of the church and its names, has been"The Church of Jesus Christ of Latter Day Saints",and I only know that from history as I read it that the body was called at one time the "Church of Latter Day Saints"

I15I Q-At what time was that? A-I could not give you the dates without examining the ~~dates~~ record and history.

I152 Q-Might I refresh your memory by referring to an article in the Saints Herald of December 18th 1886,in which it is stated"another reason lies in the fact that the church in 1834 in conference assembled saw fit to denominate itself officially the "Church of Latter Day Saints". Do you recognize what I have read to you Mr Smith? A-I will have to examine it Colonel and its connections before I can answer.(witness examines the publication referred to) I recognize that as a statement taken from the Evening and Morning Star. It was taken from that publication,and the citation underneath shows that fact.

I153 Q-Who made that citation? A-The editors.

~~I15~~ **

I154 Q-Who were the editors? A-Joseph Smith and W.W. Blair.

I155 Q-You are the Joseph Smith referred to? A-Yes sir.

I156 Q-Can you tell how long the church was known by that name? A-I cannot unless I gather it from current history,and reading about it.

I157 Q-Was there any other church at and about that time under any other and different name? A-I could not tell you that.

I158 Q-Under the name of,-well let that pass. Now was the name of the church changed again in 1838 by the body,and called "the Church of Christ of Latter Day Saints",-the church of Latter Day Saints? A-I don't know. I do not know as to the date when the change took place,except as I read it from what may have been written.

I159 Q. Look at this same paper in the next paragraph,and see about what was done in 1838? A-Yes sir,I recognize that as a statement taken from the Millenium Star,the volume and pages of which are given,but I know nothing about the correctness of it.

I160 Q-What is the Millenium Star? A-It is a periodical that was published by the church originally,and continued by the Utah Church in England.

I161 Q-Will you please read that quotation?

Counsel for the plaintiff objects to the question on the ground that it is incompetent,immeterial and irrlevant,and hearsay,and improper cross-examination.

A-In 1838 the church adopted the further title,the Church of JesusChrist of Latter Day Saints. See Millenium Star,volume16 pages 117 130,131,etc, And April 26th 1838,Joseph Smith the seer, received a revelation, saying"Verily,thus saith the Lord, My Church of Jesus Christ of Latter Day Saints,scattered abroad in all the world;for thus shall it be called in the last days"etc.Millenium Star,volume 16,pages 147,148".

Counsel for the plaintiff moves the court to exclude from the record the answer of the witness for the reason and on the grounds that it is incompetent,immeterial,hearsay,and not the best evidence,the paper itself being the best evidence.

I162 Q-Is that recognized as authority in the re-organized church?

A-The Millenium Star?

II63 Q-Yes sir? A-No sir.

II64 Q-And these statements as taken from theeMillenium Star are not looked upon as authoritive? A-They are taken for just what they show on their face,and for what they are worth,-nothing more.

II65 Q-Well,what are they worth? A-They are worth just what they purport to be worth,and no more.

II66 Q-You say the Millenium Star is not recognizedas authority in the church at the present time.

II67 Q-Was it ever recognized as authority? A-Yes sir,but not after a certain date.

II68 Q-After what date,or at what time did it cease to be regarded as an authority? A-June 27th ~~XX~~ 1844.

II69 Q-Well were the issues of it recognized,-are the issues of the Millenium ~~xx~~ Star prior to that date recognized as authority prior that date? A-Only for what it contains,and then only for what it purports to be. The accuracy or correctness of ~~x~~ it is not vouched for as it has never been accepted or passed upon,as authentic.

II70 Q-Did you,or did you not piblish these extracts as authentic upon the question of name? A-We published it from the record, and gave the volume and ~~xxxxxxxxxx~~ page of the publication, simply for what it purports to be,without vouching for their correctness. We published it simply as a quotation without vouching for its accuracy or authority,and that is all.

II71 Q-Did you publish them with your endorsement? A-No sir.

II72 Q-You did not? A-No sir,no further than is stated.

II73 Q-No further than you state in the articles itself A-No sir.

II74 Q-Now then do you recognize the last paragraph in the third column from the page from which you have quoted,as your editorial comment on those quotations? A-Do you mean the paragraph beginning with the words "in conclusion"?

II75 Q-Yes sir? A-Yes sir.

II76 Q-You do recognize that as you editorial comment? A-Yes sir.

II77 Q-Please read the paragraph?

Counsel for the plaintiff objects to the question on the ground that it is irrelevant and immeterial,and not cross examination.

II78 Q-You may read it? A-"In conclusion on this point we shall readily and cheerfully adopt as its corporate title"The Church of Christ",when a command to that effect comes through Gods authorized prophet and seer to his church. Gods church is one of order and authority,and he is wise who heeds this fact,and profits by it. Private interpretation of Scripture,like private notions of church government are neither consistent nor scriptural. "If he neglect to hear the church,let him be unto thee as a heathen man"and a publican". Matthew 18;17."

Counsel for the plaintiff objects to the answer of the witness,or ~~x~~ the quotation just read by the witness,and moves the court/ to exclude the same from the record on the ground that it is irrelevant and immeterial and not proper cross examination.

II79 Q-Do you recognize thia language as a part of the quotation referred to? "And April 26th 1838,Joseph the Seer received a revelation,saying "Verily,thus saith the Lord,My Church of Jesus Christ of Latter Day Saints,scattered abroad in all the world;for thus shall it be called in the last days". Do you recognize that as a part of the quotation? A-I should judge from the reading of it that it was the editorial statement from what appears in the quotation.

II80 Q-Did that meet with your endorsement? A-No sir,only as callingx attention to what was ~~cited~~ quoted or cited.
II81 Q-And that is all? A-Yes sir.
II82 Q-Was that statement there of which I have just read of Joseph Smith about the revelation on April 26th 1838, where i t says "Joseph the Seer received a revelation,saying",is that true? A-It is true according to the record relied on.
II83 Q-What do you mean by that? A-I mean that it is true as to the record it was cited from. It is a true citation from the record,but as to the correctness of the history we do not know anything about that? ~~A-I mean that it is true as to the record it was cited from.~~ nor do we endorse the history or say anything about its correctness.
II84 Q-Do you not recognize this quotation as a revelation, "Verily thus saith the Lord. My church of Jesus Christ of Latter Day Saints scattered abroad in all the world,for thus shall it be called in the last days". Do you or do you not recognize that as a revelation?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that the same is incompetent irrelevant and immeterial,not proper cross examination and calling for an opinion of the witness only.
A-I have stated already that I did not know of any such a revelation and I could not vouch for its correctness as a revelation,but I can vouch for its correctness as taken or copied from the record that it purports to have been taken from . That is all I can do,for I do not know that it was ever received,approved and adopted by the church according to the rules of the church.
II85 Q-Now Mr Smith do you recognize this editorial upon that quotation, -"In order that the reader may see the timeliness of this revelation he should remember that these were trying times for the church,for some of her strong ones were turning away to the beggarly elements,following their own private notions and seeking to justify themselves therein by wrestling and perverting texts of scriptures to suit their theories,prominent among them,the name of the church". Do you recognize that as editorial comment on the question?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ~~xx~~grounds that the same is incompetent,irrelevant and immeterial,is not cross examination and calling for an opinion of the witness.
A-Yes sir that is the statement made by the editor or wtiter of that paragraph at the time,but it does not endorse however ,the fact of their having a revelation,-neither as to the knowledge of the fact as to whether or not there was a revelation,nor as to correctness of the history.
II86 Q-You were one of the editors at the time? A-Yes sir.
II87 Q-And you endorse what the editor did,just the same as if you had done it yourself? A-Yes sir, In this way,-I stand associated with him,and share what,ever blame or honor there may attach to the conduct of it.
II88 Q-Or responsibility? A-Yes sir,or responsibility. We may differ in opinion however,as to what each other may write.
II89 Q-Will you state why you do not or have not received that as a revelation to the church? A-Simply becase I do not knowx any thing about the conditions.
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, ~~xxxxxxx~~ and immeterial,and is not proper cross examination.

1190 Q-What do you say to that question? A-I said that I did not know anything about the history of the whole affair personnally

1191 Q-That is about the revelation? A-Yes sir,I don't know anything about it,and do not know that it is a revelation.

1192 Q-Is that not in the Book of Doctrine and Covenants? A-Not that I know of. I do not blieve it is. I know I never saw it there.

1193 Q-What has the re-organized church received in the way of revelations other than what are in the Book of doctrine and covenants.

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is irrelevant,incompetent and immeterial, and is improper cross-examination.

A-Some of the revelations the re-organized church has received are not incorporated in the book of doctrine and covenants There is an order from the Conference authorizing it however so far as we are concerned.

1194 Q-And are any revelations given by yourself,received and acted upon as doctrines or rules of the church,that have not been passed upon by the church? A-As I stated on yesterday,-at times when exigency requires such has been done,and the matt- has been subsequently examined and approved or dissaproved,as the case may be,but it is acted upon until dissaproved,because that exigency,-or the exigency or urgency of the case required it,and there was no conference or meeting of the body to which the matter could be referred in time to have passed upon before the emergency arose.

1195 Q-In such a case it is accepted until dissaproved. ~~Such matters~~ A-It is acted upon,but not after it is dissaproved. Such matters are merely matters of instruction or direction.

1196 Q-In Exhibit J,on page one hundred and two,section nineteen,paragraph two,occurs the following,-"Wherefore,meaning the church ,thou shalt given heed to all his words and commandments, which he shall given unto you as he receiveth them,walking in all holiness before me;for his word ye shall receive as if from mine own mouth,in all patience and faith;for by doing these things the gates of hell shall not prevail against you; yea,and the Lord God will disperse the powers of darkness from before you,and cause the heavens to shake for your good, and his names glory. For thus saith the Lord God,him have I inspired to move the cause of Zion, in mighty power for good; and his diligence I know,and his prayers I have heard;yea, his weeping for Zion I have seen,and I will cause that he shall mourn for her no longer,for his days of rejoicing have come unto the remission of his sins,and the manifastations of my blessings upon his works". Now the topic of that revelation is"Revelation to Joseph Smith,Jr.,given April 6th 1830"

By Mr Kelley,-"It don'y seem to me that that is a proper way to ex-amine a wi tness,to take a book and read from it yourself. It seems to me that the proper way would be to put the book in the hands of the witness,and stand by him,and see that it is read properly before requiring any answer. I simply say that as a suggestion for I think that is the proper way".

By Mr Southern,-

1197 Q-Very well,I think your suggestion is a good one,and I will avail myself of it for I do.not think that I am inclined to take any advantage of the witness. Mr Smith will you take this book,Exhibit J,and read section nineteen,beginning at the top-ic,and reading paragraph one?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immeterial, and not proper cross-examination.

I198 Q-You may proceed and read the section beginning at the topic?

A-"Revelation to Joseph Smith, Junior., Given April 26th ~~1829~~ 1830. Behold, there shall be a record kept among you, and in it thou shalt be called a seer, a translator, a prophet, an apos-tle of Jesus Christ, an elder of the Church through the will of God the Father, and the grace of your Lord Jesus Christ; being inspired of the Holy Ghost to lay the foundation thereof, and to build it up unto the most holy faith; which Church was organized and established in the year of our Lord eighteen hundred and thirty, in the fourth month, and on the sixth day of the month, which is called April.

Wherefore, (meaning the church,) thou shalt give heed unto all his words and commandments, which he shall give unto you, as he receiveth them, walking in all holiness before me; for his word ye shall receive as if from mine own mouth in all patience and faith; for by doing these things the gates of hell shall not prevail against you; yea, and the Lord God will disperse the powers of darkness from before you, and cause the heavens to shake for your good, and his names glory. For thus saith the Lord God, him have I inspired to ~~raise~~ move the cause of Zion in mighty power for good; and his diligence I know, and his prayers I have heard, yea, his weeping for Zion I have seen, and I will cause that he shall mourn for her no longer, for his days of rejoicing are come unto the remission of his sins, and the manifestations of my blessings upon his works.

For behold I will bless all those who labor in my vineyard, with a mighty blessing, and they shall believe in his words which are given him through me, by the Comforter, which manifes-teth that Jesus was crucified by sinful men, for the sins of the world; yea, for the remission of sins unto the contrite heart. Wherefore it behooveth me that he should be ordained by you Oliver Cowdery, mine apostle; this being an ordinance unto you, that you are an elder under his hand, he being the first unto you, that you might be an elder unto this Church of Christ, bearing my name; and the first preacher of this church unto the church, and before the world; yea, before the Gentiles; yea, and thus saith the Lord God, lo, lo., to the Jews, also, Amen"

I197 Q-Is that the laws of the old church? A-Yes sir.

I198 Q-How do you know it is the law of the old church? A-It is amongst the revelations adopted and accepted by the church in 1835

I199 Q-Did that law or does that law, govern the acceptation or rejection of revelation? A-I understand that is a part of the rule by which they were governed in the reception of revelations, and in accepting them.

I200 Q-Did you succeed to precisely the same power that your father was possessed of in respect to revelations?

Counsel for the plaintiff objects to the question ~~as~~ on the ground that it is incompetent, irrelevant and immeterial, and is not cross examination, and calls for a conclusion or opinion of the witness.

A-I succeeded to the power or authority to give that which may be received by me to the church in the same way.

I201 Q-What do you mean by the "same way"? A-In the same way that my father gave what he received to the church.

I202 Q-My question is did you receive from any source or through any source, the same power as you father had?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant

and immeterial,is not cross examination and calls for an opinion of the witness.
A-I shall answer the question in the same way as I did the former question.

I203 Q-Well what is that answer? A-I stand in the position to receive and give the church that which may be given to me,in the same manner as is stated in that section,whicj I have just read,as thex successor of my father.

I204 Q-Do I understand you correctly when I say that xxx xxxxxx in your testimony,as I understand it,you say,you say that you hold the same office in the re-organized church that your father held in the old church? A-Yes sir.

I205 Q-You stard in the same position to receive and deliver revelation to the re-organized church that your father stood in to receive and deliver revelation to the old church? A-Yes sir that is as I understand it.

I206 Q-Then are you an apostle? A-I am.

I207 Q-Were you ever ordained as an apostle? A-Yes sir.

I208 Q-Where were you ordained as an apostle? A-Well I was ordained an high priest,which makes me an apostle,but I am not standing in the quorom of Twelve apostles.

I209 Q-Are all high priests apostles? A-A-They are when they are engaged in apostolic work.

I210. Q-Do they engage in apostolic work unless they are ordained and set apart as apostles? A-Yes sir. They are appointed by the Conferences,and so are the seventy,and an elder may be the same thing,but they do not belong to the apostles or leading quoroms as members of it.

I211 Q-Is any one considered an apostle of the church until he has been ordained xxx to the office of an apostle? A-They are when they do apostolic work,but they do not hold that specific office in the quorom. Joseph Smith is called an apostle although he was not with the twelve.

I212 Q-Is there any other rule governing the rule of reception of revelation by the church,-the re-organized church,-than that found in the book of doctrine and covenants? A-Nothing more than may have transpired from the customs of the church,and and what may have been recorded in current history.

I213 Q-Have any such rules been found in the customs of the church? A-Yes sir.

I214 Q-Where? A-In the traditional teachings of the church.

I215 Q-In what respect do they differ from this rule given here in this revelation? In this revelation given in section nineteen of Exhibit J? A-They do not differ from it materially,-only in elucidation of detail,-that is all.

I216 Q-They differ from it simply in elucidation of detail? A-Yes sir.

I217 Q-Will you specify some of the matters of detail wherein they differ? A-I did on yesterday.

I218 Q-
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immeterial,and not cross-examination.

I218 Q-You did that on yesterday you say? A-Yes sir.

I219 Q-Well I don't recollect it if you did,and I would like you to do so again to day? A-When revelations are received they are subjected to an examination,and that is a process that is not found in that revelation.

I220 Q-That is not found in this revelation? A-No sir. The methods

governing the acceptance are largely modified by the character of the revelation,-the conditions and circumstances under which revelation may be received,and instruction may be asked for before passing upon it.

I221 Q-And those rules ,-those particular rules,which you last stated are not found in the Book of doctrine and covenants?
A-Not all of them. Some of them,are

I222 Q-But are found in the customs of the church which have sprung up?
A-The basis of them are to be found in the organic law of the church,and as matter or condition'have developed in the work of ofganization,necessities have arisen,upon which it was necessary to work out matters of de tail.

I223 Q-And revelations as I now understand you,in the re-organized church,to be of force in the church,must be submitted to the various bodies of the church for which they are intended? A-Before they can be recorded and become a law or rule binding upon the church,they must be so received and accepted upon.

I224 Q-Was that the law or rule in the old church? A-Yes sir I believe so.

I225 Q-Well do you know whether it was or was not? A-I so understand it,but of course I could not answer you positively and definitely upon that question, I could not say positively of my own knowledge whether it was or not,but that is my understanding.

I226 Q-Is that the case as laid down in the doctrine we have just read
A-Yes sir.

I227 Q-They are precedents for this rule? A-Yes sir.

I228 Q-But the precedents are not to be found in this doctrine and covenants? A- No sir,but they are to be found in the traditional teachings of the church.

I229 Q-Do you know from your historical re-search whether there was ever such a rule in force prior to 1835? A-No sir.

I230 Q-Of course then you do not know from any other source?
A-Only from history and common custom. I told you I was not cognizant of what took place when I was a small boy.

I231 Q-Now you have said that it was not necessary that an apostle should be ordained? A-No sir.

I232 Q-It is not necessary that an apostle should be ordained? A-I did not so state Colonel.

I233 Q-Excuse me,-Ordained as an apostle I meant,-it was not necessary that an apostle should be ordained as such? Did you not so state the fact to be? A-You asked me the question if I remember rightly,whether a man can be an apostle without being ordained,as especially to the apostolic office or quorom and I answered yes,if he acted in the capacity of an apostle, and was in fact an apostle.

I234 Q-Could he be an apostle without being ordained? A-No sir,he must be ordained to the Melchesidical priesthood,but when he is ordained as an apostle,he is of course an apostle.

I235 Q-Then could any one hold an office in the church,-the office of apostle who is an apostle? A-I do not know that I understand the question.

I236 Q-Could any one hold the office of an apostle in the church without being ordained? A-No sir,he must first be ordained to the priesthood.

I237 Q-But not to the office of an apostle? A-He may be an apostle I said without belonging to the quorom of twelve. Joseph Smith and Oliver Cowdery were recognized as apostles and did not belong to the twelve.

I238 Q-Were they,or were they not,ordained as apoatles? A-I think

not,but I cannot tell you though from my own knowledge.
I239 Q-Do you say they were not? A-No sir,I say I think not,but I do not know positively. They may have been for all I know to the contrary,but my impression derived in different ways,that I could hardly explain,is that they were not.
I240 Q-I will hand you Exhibit J,opened at page ninety three,and ask to read from section seventeen,paragraph one,-the first ten lines and state what that is? A-
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immeterial,to any of the issues in this case,and not proper cross-examination .
A-Well what do you wish me to read.
I241 Q-That section or paragraph I pointed out? A-The whole of the paragraph?
I242 Q-Yes sir if you desire so to do? A-"The rise of the Church of Christ in these last days being one thousand eight hundred and thirty years since the coming of our Lord Jesus Christ in the flesh,it being regularly organized and established agreeably to the laws of our country,by the will and commandments of God in the fourth month and on the sixth day of the month which is called April;which commandments were given to Joseph Smith,Junior,who was called of God,and ordained an apostle of Jesus Christ,to be the first elder of the church,and unto Oliver Cowdery,who was also called,of God,an apostle of Jesus Christ,to be the second elder of this church,and ordained under his hand;and this according to the grace of our Lordand Saviour JesusChrist,to whom be all glory,both now and forever. Amen".
I243 Q-What is that section which you have just read? A-It is a recitation of the origin,rise and organization of the church in the month of April I830.
I244 Q-What,-that is what it purports to be? A-Yes sir,that is what it purports to be.
I245 Q-Does the re-organized church accept that as a fact? A-They accept it as it is stated there.
Council for the plaintiff moves the court to exclude from the record the question and answer bearing on the matter asked in the last question on the ground that both the question asked and the witness and the answer of the witness thereto are incompetent,irrelevant and immeterial,and not proper cross examination.
I246 Q-Do you know what is meant by the rejection of the church in the phraseology of the church whichy ou represent? A-I believe I do.
I247 Q-Well what is it? A-We understand it to mean the introduction of doctrines and practices subversive of the faith of the church and that in such a case the church in its organized quorom capacity,-the church that does that is rejected of God.
I248 Q-Rejected by God? A-Yes sir,you can put it that way if you desire And also those who remained pure and steadfast in the principles as they held them and believed them,and after which they were baptized. Now that is the way we understand it Colonel.
I249 Q-Well when did that rejection take place? A-Well we draw the line for the acknowledgement or recognition of authority at the time of the death of Joseph and Hyrum Smith.
I250 Q-Well hen was that? A-June 27th I844. All baptism performed in the church prior to that time we consider valid and good,but baptisms performed subsequent to that we consider them to be subject to inquiry as to their character.

I25I Q-Are there any other reasons as to why you consider the church ~~x~~ rejected other than those you have given? A-If there are others,as there is of course,they are simply amplifications upon that basis.

I252 Q-Are there any recently connected with the ~~xxxxxx~~building of the temple? A-Well not necessarily. the building of the temple was simply one of the concomitants,-it was simply a concomitant organization.

I253 Q-Do you recognize that as this paper which I now hand you? A-Yes sir.

I254 Q-Well what is it? A-It is the Saints Herald,published at Plano, Illinois.

I255 Q-Of what date is it? A-October first I879.

I256 Q-Were you an editor of this paper at the time it was published? A-~~X~~ ~~x~~ sir.What is that?

I257 Q-Were you an editor of this paper ar the time it was published? A-I think so.

I258 Q-Do you recognize that article on the first page,entitled"last testimony of Sister Emma"? A-Yes sir

I259 Q-Well you just ~~xx~~ explain it in as few and as short words as you can what that article is?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reason that it is incompetent,irrelevant and immeterial,to any of the issues involved in this case and is improper cross examination.

~~I260 Q-Yes sir?~~ A-Do you want to know what it is?

I260 Q-Yes sir, I do not call for the substance of it,but wish you to state briefly what it is? A-It is a statement that was made by Mrs Emma Bideman.

I26I Q-Who is she? A-She was my mother.

I262 Q-And the wife of whom? A-She was the wife of my father.

I263 Q-And his only wife? A-As I understand it,-yes sir.

I264 Q-Do you know,or does this purport to be an interview with Mrs Bideman? A-Yes sir,it purports to be questions asked her,and her answers to them.

I265 Q-Will you s ate the time ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ at ehich the interview was had with her? A-I cannot without examining the dates sir.

I266 Q-Well the paper and examine them(handing witness paper)? A-It took place between the fourth and the tenth of February

I267 Q-Of what year? A-I879.

I268 Q-And when was it published? A-It was published October first I879 a cording to the dating of this,

I269 Q-Do you know when Mrs Bideman died? A-Yes sir.

I270 Q-When? A-She died in the last days of April.

I271 Q-The last days of April I879? A-Yes sir,some time during the last days of April I879.

I272 Q-When was this interview with her written? A- The ~~xxxxxxx~~ minutes ~~x~~ were written the time the questions were asked and the answers given.

I273 Q-When was the article entitled "the last testimony of Sister Emma" written with reference t o the time of her death? A-I cannot tell you that.

I274 Q-Before or after her death? A-After her death.

I275 Q-Well very well,-that is all with reference to that? A-Well if you want to know anything more about it Colonel,if I can give it to you I.would be very happy to do so.

I276 Q-Well that is all I want about that.-at least about the branch of the matter. Now I will ask you if you can answer the question as

to whether it was an exact and reliable report as to the answe
-rs which were given to the questions asked her at the time
A-Yes sir I believe it is.

I277 Q-Well is it or is it not? A-As far as I know anything about it it is.

I278 Q-I believe you were present at the interview? A-Yes sir.

I279 Q-Was any/ one present at the time you were having this interview . with her? A-Yes sir.

I280 Q-Who was present? A-Her husband.

I28I Q-Was he present all the time? A-Yes sir.

I282 Q-He was present? A-Yes sir during the entire interview.

I283 Q-Who was her husband? A-Major Louis C. Bideman of Nauvoo,Illinois.

I284 Q-I believe you stated that you took minutes at the time at Nauvoo? A-Yes sir.

I285 Q-And at the time the interview was had? A-Yes sir.

I286 Q-Were the minutes as published here October first I879,the same as the minutes that were taken in Nauvoo in February? A-Yes sir.

I287 Q-They were not changed in any particular? A-No sir.

I288 Q-Is that the form in which the interview was taken? A-I will not state as to.the consecutiveness of the questions and/answers,I would not state as to that,but substantially the inter-view is published just as it occured.

I289 Q-Can you state why these minutes were not published before she died? A-I cannot say that I can,any further than we were pressed for room at the time,and she was taken sick not a great time after that,and I attended on her all through her sickness,and helped to bury her.

I290 Q-I belive the interview was had in the month of,-what month was it? A-In February. It is stated in there/when the interview took place.

I29I Q-The interview was had in February I879,and it was not published until the month of October of the same year? A-Yes sir.

I292 Q-That was some months after her death? A-Yes sir.

I293 Q-Can you state why the publication of this interview was delayed until after her death? A-I can give no specific reason for it other than the failure to prepare it for publication.

Redirect examination by Mr Kelley,-

I894 Q-In your crosss examination day before yesterday Mr Smith you were asked the question,if there were any church,or any church claiming to be the successor to the original church? A-Yes sir.

I295 Q-You were asked that question? A-Yes sir.

I296 Q-Will you now state how many there has been that have made that claim since 1844? A-There has been a great many of them,-their name is almost legion.

I297 Q-Well state what they are and give their names as far as you can? A-There was the organization that went west under the Presidency of Brigham Young,and there was another under the leader-ship of James G. Strang at Voree,Wisconsin,and one on the island,Beaver Island in Lake Michigan there was an organization under Alpheus Cutler at Fishers Grove Iowa,and there is one at Preparation Iowa,under Charles B, Thompson,and there is or was one under the leadership of Gladden Bishop at Little Sioux,Iowa;and there was another one attempted by one James Colin Brewster at various times since that,-there was one by William Bickerton called the

"Bickertonites",and there was one by Granville Hedrick,and one by William Smith;one by Joseph Morris called the "Morrisites";ane by a man called William Davis,called the "Davisites" or Cannanites",a portion of which are at Walla Walla at the present time;and one by David Whitmer,and that is all I believe that is called the"Church of Christ". I don't remember any others just now,but there may be others for all I know to the contrary. That,however,is all I can remember just now.

By Mr Southern,-

I298 Q.-You don't think that any of them got away? A-Yes sir'

I299 Q.-You think then that some of them gotaway? A-Yes sir,some of them got away badly.

Redirect examination continued by Mr Kelley,-

I300 Q.-What about Sidney Rigdon? A-Yes sir.

I301 Q.-There was a faction under the leadership of Sidney Rigdon? A-Yes sir Sidney Rigdon led one faction that settled in the Cumberland Valley in Pwnnsylvania. There was a great many of these factions into which the church broke up at the time of the dispersion,-there was lots of aspirants to Moses'seat.

I302 Q.-Was Sidney Rigdon a member of the old original church? A-Certai-nly.

I303 Q.-What position did he hold in the old church? A-He was at the time of my fathers death a counsellor or one of the first Presidency.

I304 Q.-I will ask you whether or not there was a faction under the leader-ship of one of the original twelve? A-Yes sir.

I305 Q.-What was that? A-There was one led by Lyman Wight that located in Texas.

I306 Q.-What position did he hold in the original church at the time of your fathers death? A-He was one of the twelve,-one of the quorom of twelve. Now there was one or two more factions that I remember now that went off,-there was one led by Zadok Brooks,and one By W.A. Minor,and I think another called the "Church of Zion" that was led by Dr W. McClellen and others. I don't know whether I have got'em all now or not.

I307 Q.-Well that is all you can remember at the present time? A-Yes sir. That is all I can think of just now,but there may have been still more,but there was a great many more of them. I think however that is about all that amounted to anything.

I308 Q.-I will ask you now Mr Smith,whether or not these parties that you have named did not take followeres,more or less in number ,from the original church? A-I so understand it. That is the way my understanding is sir. I knew some of the members that went.I knew each of these divisions,-Rigdon,Lyman,Wight, Alpeus Culer,Bishop Brewster and Bickerton,David Whitmer, William Smith,Charles B. Thompson,and some others. I knew them when they were members of the original church,and after they were untied with these other parties.

I309 Q.-You may state now Mr Smith whether or not any of these different factions which you have recited here,or their leaders,have some of their followers,-have since that time united with the re-organized church;and if any of them have,state as nearly as you can who they are and the number of their followers and where they are? A-Yes sir there has a great many,-nearly all I may say of these factions have come into the re-organized church. There has been large accesions to the numbers of the members of the re-organized church from these various factions or organizations.

Notably is this the fact from the church in the Valley.

I3IO Q-You mean the Salt Lake church in Utah? A-Yes sir There has been large accessions to the re-orgalized church from the organization in Utah and in that inter-mountain country that went there under the leadership of President Young,and the "Strangite". faction under Mr Strang,and a number of those who were with Mr Smith,Apwl Alpheus Cutler,Lyman Wight ,Charles B.Thompson,Gladden Bishop and others. I may say that nearly all of them have since united with the re-organized church. William Smith himself is with the re-organization,and the majority of those who were with Alpheus Cutler at Fishers Grove,Iowa..

I3II Q-On yout cross examination Mr Smith you were asked something about the man Sloane who was the recorder of your church at Nauvoo,Illinois,in 1844.Will you please state what became of that man? A-I don;t remember being asked anything about him. I don't remember anything that was asked me about him,but I can answer your question. He afterwards became a member of the re-organized church.

I3I2 Q-Is he living? A-No sir he is dead. He died near Salmon Falls,California. I do not remember how long it is sinfe he died,but it has not been many years, however.

I3I3 Q-Wereyou acquainted with him during his life time? A-I used to know him when I was a boy there at Nauvoo.

I3I4 Q-On your cross examination Mr Smith you were asked something about the rules of the re-organized church with reference to the acceptance of revelations? A-Yes sir.

I3I5 Q-Well you may now state and cite,and read to the reporter references from any of the books of authority in the re-organized church,and also in the old church,Passages showing the basis for these rules of the church,requiring revelations to be submitted to the quoroms and to the general body,before they are accepted by the church. You may read from any book that is on hand bearing upon that subject,-the bible or anything else that has been identified here.or offered in evidence?

By Mr Southern,-"Well Iobject to that question,~~and~~ in surance company language I object to it because it is"too blankety".

By Mr Kelley,-

I3I6 Q-I will with draw that question. Where did the church get the authority for submitting to the quoroms and body for there endorsement,-for submitting revelations after they have been received to the quoroms and body for their endorsement? A-We get it from the bible,-the teachings of the bible and book of Mormon,and the revelation to the church in an early day,which required that the common consent of the people should be obtained,-I may shall be obtained,for I take it that it is mandatory,-We have an illustration in the giving of the law from Sinia ,and its submission to the people by Moses,and its acceptance by them,and the consequences attending its acceptance or rejection according to the word of God.

I3I7 Q-Then that mode is not a ~~law~~ new mode that has been introduced into the church sine the re-organization A-No sir-

By Mr Southern,-I object to that question on the grou

that it is flagrantly leading".

1318 Q-I will withdraw the question and asked you to sta -te what the fact is about that Mr Smith? A-The re- organization has endeavored to follow the teachings and precepts of the old church from its inception. Now there ~~has~~ one law that requires or states that the three leading quotoms of the church have,what may be called a concurrent jurisdiction,and the de- cision by either one of them is equivalent to a de- cision by either of the others,requiring or exer- cising a neutralizing power in cases of conflict,so that the rights of the people may be kept free from imposition of false doctrine or theory by any body, and also if the rules of the doctrine and covenants which requires that matter of that importance shall be submitted to the body for their action,for approval or dissaproval at the conferences held from time to- time when they meet.

1319 Q-Plaintiff now offers as part of the direct examin ation of this witness on the stand,paragraph four, section forty three of the book of doctrine and cov -enants.1835 edition,the same being a part of exhib -it E".

By Mr Southern.-"I enter a formal objection to this of -fer of proof,because it it not responsive to the cross examination,and should have been put in,if put it at all,on the examination in chief."

Paragraph four,section forty three of exhibit E,the same being the doctrine and covenants,edition of 1835.offered in evidence,is as follows,to wit,- "And if your joy will be great with one soul,that you have brought unto me into the kingdom of my Fa- ther,how great shall be your joy if you shall bring many souls unto me? Behold you have my gospel be- fore you,and my rock,and my salvation;ask the Fath- er in my name in faith believing that you shall re- ceive,and you shall have the Holy Ghost;which man- ifesteth all things,which is expedient unto the children of men. And if you have not faith,hope and charity,you can do nothing. Contend against no church,save it be the church of the devil. Take up- on you the name of Christ,and speak the truth in soberness,and as many as repent,and are baptized in my name,which is Jesus Christ,and endure to the end the same shall be saved. Behold Jesus Christ is the name which is given of the Father,and there is none other given whereby man can be saved;wherefor all men must take upon them the name of Christ which is given by the Father,for in that name shall they be called in the last days;wherefore if they know not the name by which they are called,they can not have place in the kingdom of my Father".

By Mr Kelley.-

1320 Q-I will ask you now Mr Smith if in your cross exam- ination you were not asked to read from exhibit E, certain pages pointed out to you by the counsel for the defendants with reference to the name of the church?

By Mr Southern.-"Well I object to that question also for the reason that the cross examination will show what was asked the witness,and the question now asked is a repition of matter already gone over". A-I was asked to read from the book of Mormon I be- lieve. I don't recollect being asked to read from the book of doctrine and covenants as to the name of the church It seems to me that the extracts I was asked to read on cross examination in regard

to that were from the book of Mormon,but I may err in memory to that however. I was asked to read from section one I believe and from section seventeen both from exhibit J.

By Mr Kelley,-

1321 Q-That is from the book of Mormon? A-No sir from the book of covenants. It was in regard to the apostles I think.

By Mr E.L.Kelley,-

1322 Q-Were you asked to read from the body of the book? A-No sir I think it was the title page.

1323 Q-And afterwards the heading,and did you not so read? A-Yes sir I read the heading.

By Mr Kelley,-

1324 Q-I hand you now Mr Smith a book marked exhibit H, and will ask you to state to the reporter what that book is? A-It is an edition to the book known as doctrine and covenants,Published at Nauvoo,Illinois in 1846. It is the fourth American edition,and was Printed by John Taylor.

1325 Q-I will ask you if that book marked as exhibit H, contains the doctrine and usages of the original church,and of the re-organized church of Jesus Christ of Latter Day Saints? A-Yes sir,so far as it was printed at that time it does, So far as it was printed in collated form in the book of Doctrine and Covenants,it is all there.

1326 Q-I offer now the title Page of exhibit H,as follows, -"The Doctrine and Covenants of the Church of Jesus Christ of Latter Day Saints,carefully selected from the revelations of God,by Joseph Smith President of the said church. Fourth American edition Nauvoo, Illinois. Printed by John Taylor. 1846". I hand you now Mr Smith a book marked exhibit I,and ask you to state to the reporter what it is? A-It is an edtion of the book of doctrine and covenants Published at Liverpool by Samuel W- Richards in 1852

1327 Q-I will ask you if that book contains the doctrines and rules of the old original church and of the re-organized church,so far as tgey are collated,or so far I should say,as they were collated and Published up to that date? A-Yes sir they are in that book in compiled form.

1328 ~~Q-Well I offer the title Page of exhibit I,as follows,-"The book of Doctrine and Covenants of the~~ xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx Q-Well I offer the title Page of exhibit I,as follows,-"The Book of Doctrine and Covenants of the Church of Jesus Christ of Latter Day Saints,selected from the revelations of God by Joseph Smith,President. Third European Edition,steroty ped. Liverpool. Published by S.W. Richards.,15 Wilton Street. London: Sold at the L.D. Saints Book Depot..35 Jewin street:and by all book sellers. 1852". That is the title Page of this exhibit I,omitting there from the words there written in ink. Now I will ask you Mr Smith from whom you received the book marked exhibit H? A-I received it as a Present from my cousin Samuel H.B. Smith of Salt Lake City, Utah.,on January 17th 1888.

1329 Q-How did you come to receive it from him? A-i received it as a Present from him.

1330 Q-I will now ask you of what church did your bousin Samuel H"B. Smith belong? A-To what church did he belong?

1331 Q-Yes sir? A-He belongs to the Utah church,-the Brighamite Church,-so called.

1332 Q-What is the title, or name of that church? A- The church of Jesus Christ of Latter Day Saints in Utah, of which Brigham Young, John Taylor and the President,- the ~~president~~ present President Woodruff have been Presi

idents since its removal there under the leadership of Brigham Young.

I333 Q-What office did he hold in that church at the time he gave you this book? A-Well he is an elder,but what specific office he holds in the church I do ~~xxx xxxx~~ cannot say. I could not say as to the specific office he holds,although I have heard him say.

I334 Q-From whom did you receive the book marked exhibit I?A-I traded for that book with a man by the name of Lawson,a member of the old church after the dispersion went to Utah with the party under Brigham Young,and who subsequently united with the re-organ-ized church. I gave him one of our later editions for it on account of its date of publication.

I335 Q-I will ask you now Mr Smith whether or not there was,or is any rules for the trial of the President of the church,both in the old church and in the re-organized church,in case they go or act contrary to the rules or usages or practices of the church,or in the doctrine of the church? A-Yes sir.

I336 Q-What are they?A-He is amenable to the high council of the church.

~~I337 Q-Of whom is that composef,-how many members? A-I~~
~~I338 xxxx

I443 Q-Now what is it in this one? A-In exhibit E, it is in section three, Paragraph thirty seven on page eighty seven.

I444 Q-Plaintiff now offers in evidence section fourteen paragraph two of exhibit E on page one hundred and twenty six?

By Mr Southern,-"Defendants objects to the introduction of the paragraph offered in evidence, because it is not shown to be authoritive, and not sufficiently identified, and because the reading of it is not asked for".

The paragraph above offered in evidence, is as follows, -But verily, verily, I say unto you, that none else shall be appointed unto-this gift except it be through him, for if it be taken from him, he shall not have power except to appoint another in his stead; and this shall be a law unto you, that ye receive not the teachings of any man that shall come before you as revelations or commandments; and this I give unto you that ye may be not deceived; that you may know they are not of me. For verily I say unto you, that he that is ordained of me shall come in at the gate and be ordained as I have told you before, to teach those revelations which you have re-ceived, and shall receive through him whom I have appointed".

I445 Q-Now Mr Smith you spoke about a faction or organization that claimed to succeed, or claimed succession to the original church, headed by one J.J. Strang. I will ask you now about when that faction or organization came into existence? A-When it came into existence?

I446 Q-Yes sir,-if you know? A-Well I don't know specifically, I know only from history, and the dates are difficult for me to remember. I remember events and men all right, but it is a very difficult thing for me to remember dates.

I447 Q-Do you know about the time from your reading in history? A-Yes sir, I know in that way about the time. I know it the same as I do any other historical fact that I read-

I448 Q-Well, when was it? A-It was soon after my fathers death. Possibly the movement may have begun in I846 for ought I know,-or I844 I should say.

I449 Q-That was the faction or organization known as the "Strangites"? A-Yes sir.

I450 Q-Where were they when the movement commenced? A-They began organizing at Voree, not far from Burlington, Racine County, Wisconsin, and afterwards they went on Beaver Island in Lake Michigan.

I45I Q-How much of an organization did they have in their palmiest days? A-I could not give their number only from hearsay, and from general observation, and from what I have heard from those that were with them, but that would be hearsay.

I452 Q-Do you know how many there is now that are following that faction, or that still belong to that organization?

By Mr Southern,-

I453 Q-Don't answer unless you know of your own knowledge. You ought to show your means of knowledge first,-whether it is your own personal knowledge, or whether it is historical knowledge? A-Well I have personal knowledge of one or two branches or churches that are paying allegiance to the faith as taught by Mr Strang.

I454 Q-Where are they? A-I think there is one or two branches down in Kansas, I think it is at Muscotah, but I am not sure of the name of the place, and there is a number of followers of Mr Strang, but they are not organized into branches in Michigan up near Boyne in Charlesvoix County, Michigan, and some about Cold Water, Michigan-

By Mr Kelley,-

I455 Q-Well how many do they number now in round numbers A-There is not many. I don't know how many there is exactly in that organization, for they are divided and subdivided in opinion and location. I do not think there is more than forty or fifty in that branch at Mustotah.

I456 Q-What became of the Cutlerites? A-The most of them united with us, and a few of them went into Minnesota, and located at Clitherall, and united there I think under one Whitney, or Whiting is in charge, but I will not be certain about that.

I457 Q-You will not be certain about what? A-About who is in charge. That is my impression, but I wouldn't be positive about it.

I458 Q-How many, or have you the means of telling how many there are of Alpheus Cutler's faction now? A-Holding to what he taught?

I459 Q-Yes sir? A-No sir.

I460 Q-You cannot say as to that? A-No sir. All that I know is what I heard one of our members state who is living there among them. They are there, or near there.

I461 Q-Where are they now? A-At Clitherall, Minnesota. They are there, or near there.

I462 Q-What became of the organization headed by Gladden Bishop? A-I do not know what became of it. It dissolved.

I463 Q-What became of the membership, if you know? A-Some of them remained at Little Sioux, Iowa, and some of them united with us. One of the principal men, John A. Forges, finally united with us before he died. I don't know how many there was of them at any one time but I knew Bishop, and I knew John A. Forges, and he united with us before he died. I knew Forges and his family well.

I464 Q-What became of the faction headed by Zodok Brooks A-It went to pieces.

I465 Q-Where? A-About Kirtland. And some of them united with us Russel Huntley and William R. Calhoun and others when Mr Brooks departed the faith left there and departed into Texas.

I466 Q-When did the faction headed by Zodok Brooks go to pieces ? I could not tell you the year.

I467 Q-Can you recollect whether it was between 1844 and 1860? A-I could not say.

I468 Q-Or later? A-I couldn't say whether that organization was in existence in 1860 or not, but I saw Mr Brooks soon after 1860, and they were not very well united at that time, but as a matter of fact I could not state the date of their going to pieces.

I469 Q-What became of the faction led by James Colin Brewster? A-I don't know. I know of one or two of the members of that faction in New Mexico that have united with us, but I don't know them personally. All that I know is that they have united with us.

By Mr Southern,-

I470 Q-In Mexico? A-No sir, I said in New Mexico.

I471 Q-Are you speaking now of your own positive knowledge? A-Yes sir, for I know men who have been there.

By Mr Kelley,-

I472 Q-Does that organization that Brewster led, still exist to your knowledge? A-The Brewster faction?

I473 Q-Yes sir? A-No sir.

I474 Q-It is not in existence now? A-No sir.

I475 Q-How long has it been since it had any existence as an organized body? A-It has not been in existence for many years. I can't say as to just how long it has been since it went out of existence

I476 Q-What became of the faction led by W.A. Minor? A-I don't know much about that faction. I never did know much about it.

I477 Q.-Does it still exist as an organization? A-No sir,not t that I know anything about. I met him in Southern Wisconsin or Northern Illinois about 1867 and it had no existence then.

I478 Q.-What became of the faction led by William Pickerton? A-They split up into different divisions.

I479 Q.-Well,what became of them if you know? A-A part of them remained at Elizabethtown,Pennsylvania,and a part of them went down into Kansas,and I think there is a portion of them in both places yet,but how large they are I do not know. The part that is in Kansas still holds to Mr Pickerton,though he, himself,has been dismembered from the body. I can't say where all that faction is,or what became of them.

I 480 Q.-What became of the faction led by William Smith? A-It went to pieces like the rest of them at Covington and Binghampton, Illinois. A great many of the Smith faction united with us,and some of them are still living around at different places. I know of some of them or did know of some of them there at Amboy.

I481 Q.-Does that faction still retain an organization? A-No sir.

I482 Q.-That is the faction that was headed by William Smith? A-No sir it has no organization now.

I483 Q.-What became of the leader? A-William Smith united with us as well as some of the members of the faction he headed. William Blair at one time united with us.

I484 Q.-Is that your uncle William B. Smith? A-Yes sir. It is the same man. He belongs to the re-organized church now along with a great many of the members of the organization he had.

I485 Q.-What became of the faction headed by Joseph Morris? A-He was killed at Weber,and the organization was broken up.

I486 Q.-He was killed you say? A-Yes sir,he was killed at Weber by a party sent out from Salt Lake City,by Robert E.Burton an official of the Territory out there.

By Mr Southern,-

I487 Q.-You say he was killed by this man whose name you have given? A-By a party that was sent out.

I488 Q.-How do you know that? How do you know that to be a fact? A-By current report and knowledge of the membership.

I489 Q.-I want to know how you know that? A-I know it by historical events,or the historical record,the same as I know other events and by a personal contact with the membership from 1862 to the present time. Numbers of the factins he led have united with us. There is elder Fortcutt and Samuel Ackerly were among them,and a number of others. I can give the names

of a number who were there when it occured if it is necessary

By Mr Kelley,-

I490 Q.-What became of the faction led by William Davis,if you know? A-I could not tell you.

I491 Q.-You do not know what became of that faction? A-No sir not from personal knowledge.

I492 Q.-Well,what became of the faction led by David Whitmer? A-I believe that the faction or church that Whitmer established is still existent up at Richmond. I don't know much about them, but there is an organization,the members of which I have met with at different times.

I493 Q.-You have,you say,met with members of that organization? A-Yes sir We have one of their elders living in our town.

I494 Q.-What became of the faction led by Sidney Rigdon? A-It went to pieces also.

I495 Q.-Where? A-Up about Pittsburg in the Cumberland Valley.

I496 Q.-Does that faction still retain an organization? A-No sir,I believe not.

I497 Q.-What became of the faction led by Lyman Wight? A-That faction or a part of it located in Texas,but it finally went to pieces so to speak. It became scattered,and the major portion of it,or a great many of them,-the Hawley family and the Ballantynes,and a number of others came up into Iowa,and united with us. Lyman Wights sons are with us,or a part of them and one of them lives in Missouri,not far from where we live,and he is a member of our organization along with his family. Lyman Wight's widow united with us and also his grand children and children.

I498 Q-What became of the faction led by William McClellen? A-I could not tell you much about it,-

I499 Q-Well tell what you know? A-I can't tell much bout that. only I know ex-members of that faction,-I knew them after its dis-organization.

I500 Q-Well it became disorganized? A-Yes sir That os my understanding

I50I Q-Well do they maintain an organization? A-Not that I know of.

I502 Q-Where were they located? A-I believe at Kirtland,Ohio.

I503 Q-They were located you say ar Kirtland,Ohio? A-I think so.

I504 but I don't know positively. They published a paper there at all events.

I504 Q-Where did McClellanlive the last you know of him? A-The last I knew of him he lived here at Independence Missouri.

I505 Q-What about the faction or organization that was led by Granville Hedrick. A-Well there was a faction led by him.

I506 Q-Where were they located at first? A-Well I could not tell you specifically,though I understood it to be near Bloomington.

I507 Q-Bloomington,Illinois? A-Yes sir. Mr Hedrick published a paper down there a portion of the time,-I believe it was in I854,-I mean in '64,but I never got much acquainted with the organ ization though I knew numbers of the party.

I508 Q-Do you know when that organization was organized? A-I do not. No sir.

I509 Q-Were you acquainted with Mr Hedrick? A-Yes sir ,I met Mr Hedrick several times and others that were members of the organization of which he was the leader.

R ecross examination by Mr Southern,-

I5I0 Q-About which time did this re-organization about which you have spoken and the names which you have detailed in your re-examination in chief,-about what time were these different organizations by these different parties whose names you have detailed,started? A-I could not give you the specific dates.

I5II Q-Did you not attempt to give the dates? A-No sir.

I5I2 Q-You did not? A-No sir, I did not pretent to give the dates specifically.

I5I3 Q-Well what did you pretend to give? A-I did not pretend and do not now pretend to give the specific dates,but I said it was between the death of Joseph Smith and,-well it was subsequent to the death of Joseph Smith,-that is after I844 and down to I852 I think.

I5I4 Q-Were any of them before I852'? A-Yes sir.

I5I5 Q-You are sure of that? A-I think so. But I would not be positive on that point,but from the best information and knowledge I have on the question that was the time.

I5I6 Q-Well were not some of them after I852? A-Yes sir I think so, but that I would not be positive about either. As to the dates I cannot tell you when it was,for as I said before I am poor at remembering dates.

I5I7 Q-Your memory in so far as dates are concerned is not the best in the world? A-No sir.

I5I8 Q-Is it not a fact that the re-organized church in I852 at the meeting held at Newark,Wisconsin.,was about as weak or weaker than some of the other organizations were when they started? A-Yes sir.

I5I8 Q-You know that to be a fact? A-No sir.

I5I9 Q-Did you not just state that as a fact? A-No sir.

I520 Q-Well what did you say about that? A-I said I presumed it was but did not say it was. Ix will state again that I presume that is a fact as far as numbers is concerned.

I52I Q-And did it not struggle along as a weak body down to I860? A-Well it was comparitively weak,but it was gathering strength all the time,however.

I522 Q-Well about what was its strength in I860 when you first became associated with it? That was the time you first became associated

with it? A-Yes sir.

I523 Q-Well about what was its strength at that time? A-I could not tell you.

I524 Q-Is that one of the things you don't know anything about? A-I could not tell you the exact number that there was belonging to it at that time.

I525 Q-Well I am not asking you ~~x~~ for the exact number? I asked you about what was the number that belonged to it at the time you first became associated with it,and that means for an approx-imation of the number as nearly as you can come at it? ~~x~~A-Well I could not say,but I expect that at that time there was probably three hundred in the membership. I think that was about the number that were identified with it then.

I526 Q-That was in I860? A-Yes sir.There was possibly that many,possibly there may have been more,-I could not say.

I527 Q-Well can you state how many members there was belonging to it in I870? A-No sir,but there was probably some thousands belonging to it then.

I528 Q-Some thousands you say belonged to it in I870? A-Yes sir,for at that time we had built some church buildings.

I52 9Q-Would you say as many as five thousand belonged to it in I870? A-No sir,I would not like to state any specific number, ~~xx~~ ~~xxxx

who were baptized prior to my fathers death were received on their original baptism upon their request to be so received, and if they required re-baptism they were re-baptized,but it was not required of them if they were received on their original baptism as members of the church.?

I544 Q-That is they way they were received? A-Yes sir.

I545 Q-They were so received not-with-standing the fact that they had been members of other organizations? A- Yes sir.

I546 Q-If they had been baptized by these other organizations,how then A-It does not effect their standing with us if they were members of the original church,

I547 Q-Well if they had been received originally into these other organizations then? A-And baptized by them?

I548 Q-Yes sir? A-We did not receive them on their baptisms unless it could be shown that the persons who baptized them,held legitimate authority in the days of Joseph Smith,and that that authority had been corrupted.

I549 Q-If they were baptized under these circumstances,then you would receive them? A-Yes sir.

I550 Q-Although they came from these other organizations you would receive them? A-Yes sir,

I551 Q-That did not make any difference? A-No sir.

I552 Q-Well now what superior right,power and authority did the re-organized church have over these other organizations you have mentioned?

' Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent,irrelevant and immeterial,and is not proper re-cross examination,and calls for an opinion of the witness.

I553 Q-Answer the question? A-What is the question.

I554 Q-I asked you what superior right the re-organized church over which you presidehas or had over these other organizations you have referred to? A-Well we assumed to represent the original church,and spoke as such ex-cathreda.

I555 Q-That is the reason you assumed this right,or claimed right? A-Yes sir.

I556 Q-Well did they not assume the same ground? A-I believe they did but I don't know however.

I557 Q-And did not and does not the Salt Lake Church assume the same ground? A-Yes sir I believe that is so,but I could not tell you specifically whether it is the fact or not.

I558 Q-It is your opinion that your organization had that right as the successor of the old original church? A-Yes sir,-that is the fact.

I559 Q-Now is there any law of your church which makes a fact out of such an opinion?

Counsel forcthe plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent,irrelevant and immeterial,is not proper re-cross examination, and calls for an opinion of the witness.

I560 Q-Is there any law of the re-organized church making such an assumption a fact? A-I.do not know. I cannot answer you Colonel any further than this,-that we have acted upon the principle that that is the fact.

I561 Q-Is there any law in any of your books recognizing that principle if you have acted upon it?

Counsel for the plaintiff objects to the question on the ground that it is incompetent,irrelevant and immeterial,and is not proper re-cross examination,and calls for an opinion of the witness.

A-I don't know that there is any specific rule.

I562 Q-Is it not a fact Mr Smith that there is no such a rule or law? A-I say I don't know of any specific rule,except the drift of the teaching,that a paerson having been received into membership and having become identified with the church,that his right to be regarded as a member ceases by virtue of transgression upon his own part from the faith,or expulsion for cause may follow. That is the drift of the teaching of the church and there cannoty be question but that our church or any other has that right to discipline its members,and even proceed to the length of expulsion for cause.

I563 Q-Now did your church after the re-organization under take to exclude any one who applied for admission into your membership, who had gone off and affiliated with these other organizations A-We did not provided they came to us duly qualified upon their baptism.

I564 Q-What do you mean by that? A-I mean that if they had been baptized into the old church in the days of my father,or if they had been subsequently baptized by someone qualified to administer the rite of baptism in the days of my father.

I565 Q-Well did you undertake to exclude any one who had gone off with those other organizations? A-We did not if there was no complaint made against them. We did not pay much attention to the mere fact that they had belonged to some of these other factions.

I566 Q-Did you under take to discipline them in any way? A-No sir,-not as members of the church.

I567 Q-Have you ever undertaken to discipline in any way the nine out of the twelve who went off to Salt Lake with Brigham Young?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immeterial,and on the further ground that it is not proper cross examination.

A-No sir.

I568 Q-You have not done that,nor have you undertaken to do so? A-No sir,we have never undertaken that.

I569 Q-Nor have you undertaken to discipline any of the other secessionists who went off in the same way? A-No sir. Not to my knowledge has there been anything of that kind done.

I570 Q-Do you think that your effort at disciplining them would be effectual.if you did undertake to do it? Well I will withdraw that question for I think myself it is incompetent. The fact is that the re-organized church has never undertaken to discipline them in any way. A-No sir we never did. We have never served any notice on them,or tried to try them in any way.

I57I Q-Well if you are and were the original church why did you not do it?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is immeterial and incompetent,and calls for an opinion.of the witness,and is improper re-cross examination.

A-Why did we not do what?

I572 Q-Why did you not discipline them? A-Simply because we did not deem it to be necessary.

I573 Q-Well did you deem it to be the fact that you had power to do so?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as stated in the objection to the last question to which objection is made.

A-Well whether we had or had not at all events we didnot exercise or assume to exercise it in that way.

I574 Q-You did not? A-No sir,-Not any more than to withdraw all commun-cation from them,-with withdraw from all communication with them.

I575 Q-Have you ever had a revelation to the effect that that had to be done? A-No sir.

I576 Q-Did any of the parties who had ever been ordained in any of ~~the~~ these factions present themselves to the re-organized church for reception? A-If you mean that,-

I577 Q-I mean that had been oradained by or in these factions or any of them? A-Upon their ordination in these factions?

I578 Q-Yes sir? A-I think perhaps there has been one or two instances of it,and I don't know but/there has been more than that.

I579 Q-Was there ordination approved? A-No sir,-not the ordination they received in these factions.

I580 Q-But if they had been ordained in the old church I understand you to say,and then had joined some of these factions,and afterwards came to you,-came to the re-organized church to be re-ceived into membership they were received on their original ordination? A-Yes sir,They were received upon their original baptism inthe original church,but their admission and baptism for ordination as the case might be,had to be reaffirmed upon them by the action of the body.

I58I Q-Did you ever try,or attempt to try any of them,for their action in their action in going off and connecting themselves with these other factions factions? A-No sir.

I582 Q-You never assumed or attempted the trial of any of them for that A-No sir.

I583 Q-Now you say you would not accept any ordination if it came through one of these other factions? A-No sir.

I584 Q-Do you say that has ever been done? A-Not to my knowledge? Not since my connection with the church.

I585 Q-Well where did you get the authority to reject that ordination Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is irrelevant,incompetent and immeterial,calls for an opinion of the witness,and is improper re-cross examination.
A-We assume it by right of our claim to represent the original church?

I586 Q-You assume it you sa ? A-Yes sir.

I587 Q-It is an assumed right then? A-Yes sir, You can put it that way if you desire.

I588 Q-You have spoken of William B. Smith as one of the twelve I believe? A-Yes sir,he was one of the twelve in my fathers day

I589 Q-By whom was he ordained as one of the twelve? A-I could not say I could not tell you that sir.

I590 Q-By what church was he ordained? A-The church that existed under my fathers Presidency.

I59I Q-Well what church was that? A-The Church of Jesus Christ of Latter Day Saints.

I593 Q-And he went off I believe you stated in your re-examination in chief,with one of these factions? A-Nox sir I didd not say that I said that he had organized or helped organize what you might term a faction representing the church,or claiming to represent the church.

I594 Q-Where did that faction go? A-I think one of the efforts was made at Covington,Kentucky and another near Amboy Illinois or

Binghampton,Illinois.

I594 Q-That was the faction that William Smith led? A-Yes sir.

I595 Q-Where is he living now? A-He is living in Iowa, and has been living there for some twenty odd years

I596 Q-I believe you stated that he had been received into the reorganized church? A-Yes sir.

I597 Q-How recently has he been received into the reorganized church? A-I can't tell you the date that he was received,but it has been some several years.

I598 Q-Now when you received him into your church did you recognize his former ordination into the old church? A-~~As an high priest?~~ A-No sir.

I499 Q-How did you receive him? A-As an high priest.

I600 Q-Upon what authority did you receive him as an high priest"? A-In the right of the body to direct in regard to its officers.

I601 Q- Did you recognize then the validity of his former ordination? A-In a sense we did.

I602 Q-In what sense? A-In the sense that it conferred the high priest hood,-yes sir,-but not to the quorom of the twelve apostles.

I603 Q-And you did that after he had been amongst these other factions? A-We did it for the work which he did.

I604 Q-And the work which he did was the undertaking of the organization,of another faction? A-Yes sir.

I605 Q-Or organism? A-Yes sir.

I606 Q-After he had been out of the old church how long? A-Well I don't know but from the time of the dispersion I might say.

I607 Q-Until the time that he joined your church? A-Until the time he joined the reorganized church.

I608 Q-Well that was up to what time? A-I don't remember the date.

I609 Q-You don't remember the date when he came back into your church? A-No sir. I do not. I know that it it has been a good many years,but the date I do not remember. It was several years ago,however.

I610 Q-Was William B. Smith ever ordained an apostle? A-That I don't know Colonel. That is a matter of history I suppose.

I611 Q-Well what does the history say about that? A-I could not say.

I612 Q-Well does it,or does it not say that he was ordained an apostle? A-I could not say. It all took place before my active date.

I613 Q-Mr Smith I will ask you if-you have ever read the history of William B. Smiths ordination by your father?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,~~and~~ irrelevant and immeterial,and is not proper re-cross examination,and does not call for the best evidence.

I614 Q-I am not asking you for the contents of that history,-I am just asking you if you ever read the history of the ordination of William B. Smith by your father? A-Well I don't now recollect that I have, for I have read a great deal of the history.

I615 Q-You have no recollection of reading that? A-~~Yes~~ No sir.

I616 Q-Don't you think that some body must have known of it when he was received into the church? A-I suppose so.

I617 Q-William B. Smith is your uncle is he not? A-Yes sir.

I618 Q-And the brother of your father Joseph Smith? A-Yes sir.

I619 Q-Did you have anything to do with receiving him into the reorganized church? A-Yes sir,

I620 Q-

1620 Q-Upon what knowledge of his former connection with the church did you receive him? A-There were members of our reorganized church who were also members of the original church who certified as to his standing at the time he was received, and the records also show what his standing was.

1621 Q-His standing where,-in the old or in the reorganized church? A-In the old original church,-the records show what his standing was there.

1622 Q-Have you any law or revelation authorizing the reception of members in that way? A-I do not know that we have any law specifically. We have no law any more than when a person presents himself who is known to have been a member of the old church, and when the fact can be substantiated by oral testimony of witnesses who of their own knowledge know it to be a fact, and that knowledge being brought to the attention of the body who has the matter of acceptance in hand, they receive it as a proof and admit them. It is merely a custom so to speak that has grown out of the exigency of the occasion.

1623 Q-Was, or was not William B. Smith, one of the quorom of twelve in your fathers day? A-Yes sir. I so understans that to be a fact,-that he was acting with the quorom of twele before my fathers death.

1624 Q-Could he have been such a member of the quorom of twelve without ordination? A-I presume not.

1625 Q-You presume not? A-Yes sir.

1626 Q-According to the laws of your church, by what authority is a man ordained an apostle? A-He is ordained to the office of an apostle upon it appearing to the satisfaction of the body that he is called to the office, and when he is nominated, and received by a vote of the body, and then he is ordained.

1627 Q-How does the body call him? A-It may be done in several ways so far as the body is concerned.

1628 Q-Well so far as the body is concerned how is it done? A-He is presented to the body, and statements are made concerning the call, and the office to which he may be called, and the call is then examined and acted upon, and if the people are satisfied with the call and the fitness of the individual receiving it, the call is ratified, and the rite of ordination performed.

1629 Q-Is it necessary that the call shall be a revelation? A-We so understand it. It must be a revelation in some form.

1630 Q-Was William B. Smith so called? A-I could not tell you.

1631 Q-Could he legally hold the office of an apostle without being called.

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent, irrelevant and immeterial, and is improper re-cross examination, and calls for the legal opinion of the witness, when it appears that the witness is not a lawyer.

A-If the body chooses to ordain a man to the office of an apostle so far as the body is concerned, they would be bound by his acts, but whether he is called by the Almighty or not, that is a question we do not propose to determine.

1632 Q-Was William B. Smith not called by a revelation to be an apostle? A-I could not tell you. I have answered that question three times already.

I633 Q-Well Mr Smith I believe that is a fact,and I have to beg your pardon for asking it a fourth time. I will try and ask you a question that you have not already answered. Was there a law in the church that required a member to be called by revelation? A-I told you what the rule is so far as we are concerned,and you are asking me what the rule was in the former days in the original church and I have told you I do not know what the rule is or was in those days for that was before my time or my connection with the church.

I634 Q-Well you have been telling that for the last half day? A-What is the question?

I635 Q-Was there a law in your church that required a member to be called by revelation? A- Yes sir,that is my understanding of it.

I636 Q-What is your understanding of it,-we want what you know Mr Smith,and not your understanding? A-I so understand that to be the rule that is laid down in all the standard books of both the old orig-inal church,and the reorganized church.

I637 Q-Well if a man was called and ordained as an apostle by the old church,by what authority did you assume to reject that call? A-Did I assume to reject it,-

I638 Q-By what authority did the reorganized church assu-me to reject that call?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immeterial,is improper cross examination,and calls for an opinion of the witness-

A-It would depend on the circumstances surrounding and attaching the case,and the conditions concerning it at the time.

I639 Q-In other words you mean to say the re-that the reorganized church would do about it just as they pleased? A-Yes sir,so far as that is concerned they would.

I640 Q-And the re-organized church is a law unto itself in those matters? A-No sir I do not assume to say anything of the kind,but I do presume to say that the reorganized church acts upon its understanding of the rules and the organic laws of the church under which it is organized and acting and by which it is governed in all its actions as we construe it

I641 Q-That is what you presume to say on this question? A-Yes sir,that is what I presume to say.

I642 Q-Now you have presented here,or your counsel has for you,several books for you to identify,and one of them is I believe what is called"the inspired translation of the bible"? A-Yes sir.

I643 Q-Will you please state wherein it differs from the original translation of the bible? A-I could not tell you,-there are a great many variations.

I644 Q-Then it differs from what is commonly known as the "King James"translation of the bible?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial,not proper re-cross examination.

By Mr Kelley,-"the witness has not been asked a question about that book during the whole examination.

By Mr Southern,-

I645 Q-Well I want the question answered,-he can answer it or not as he pleases? A-What is the question?

I646 Q-The question is whether the inspired translation of the bible presented here,-differs from the old

translation generally called the "King James" translation of the bible? A-I answered that it did
I647 Q-Then they differ? A-Yes sir-
I648 Q-In many respects? A-Yes sir-
I649 Q-In many material respects? A-Yes sir.
I650 Q-When was this translation made?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and is not proper re-cross examination.
I651 Q-You may answer the question if you understand it? A-I understand it. All I know about that is what I gather from history.
I652 Q-Well what do you mean? A-I mean that my information is that it was commenced some time in '30 and finished in '38.
I653 Q-When was it published? A-In I867.
I654 Q-Since that time has it been a law of the church? A-I do not know exactly how to apply your question. I will say however that it has been accepted by the church,and is now one of the standard books of the church.
I655 Q-It has been accepted by what church? A-The Reorganized Church of Jesus Christ of Latter Day Saints
I656 Q-Was the book ever accepted by the old original church prior to I844? A-I don't know that it was.
I657 Q-Well,do you know that it was not? A-I could not tell you.That would be before my time,and I could not say.
I658 Q-It is not your historical understanding that it was? A-I have never seen the fact that it was accepted by the old church in history that I know of.
I659 Q-Well now from what history did you get your information that it was begun in I838? A-I did not say it was begun in '38.
I660 Q-Well so that that matter may be clear I will ask you to state again when it was begun and finished? A-Well it was along about ~~I828~~ I829 or '30 and from that up to about '38 or some where along there,and was finished according to the history made in I838.
I661 Q-Is that a reliable history? A-I could not tell you that.
I662 Q-But you state distinctly that it did not become a rule of action or book of recognized authority in the reorganized church,-the reorganized church until what date? A-It was authorized,-a committeee was appointed and authorized to procure this publication,and I think it was published in I867,but I would not say positively that it was published at any particular time at first,for I don't remember the exact date that it was published.
I663 Q-Well has it since been recognized as one of the official works of the church? A-It is and has been recognized as one of the standard works of the church.
I664 Q-By which the church is to be guided in its doctrines? A-Yes sir in connection with the King James translation,and in connection with the book of Mormon and the book of doctrine and covenants. It becomes simply one of the standard books of the church according to what it purports to be.
I665 Q-You identified in your re-examination inchief, some two or three books of the book of doctrine and covenants,that I believe has not been presented before,-one of which I believe was published in I852 A-Yes sir
I666 Q-And which was marked exhibit I? A-Yes sir
I667 Q-I believe you stated that was a London edition? A-Yes sir. Well now that is the general term we have used for this edition,or the editions published there,-for some of them are published at Islington-

ton,and some at Liverpool and some at London I believe.

I668 Q-What difference is there between this book exhibit I,and the other editions of the same book that have been presented here? A-I believe there is some parts a little difference possibly,but in the main they are the same.

I669 Q-They are substantially the same? A-Yes sir.

I670 Q-Is there anything added to these books since the first edition was published in I835? A-Yes sir

I671 Q-What has been added? A-One or two articles I presume,and on the martyrdom I think was added,and there may have been some others..,the revelation of I834 I expect,but I could not say specifically as to what has been added.

I672 Q-Are those books not also regarded as standard books of the church? A-Yes sir. That book was published by the Utah Church,or the branch that adheres to them in England,and in so far as it is correct it is accepted by the re-organized church as one of its standard books.

I673 Q-That church is known as the "Church of Jesus Christ of Latter Day Saints"? A-Yes sir,-that is the official title of the church.

I674 Q-And they published the European edition of this book of doctrine and covenants? A-Yes sir.

I675 Q-Has any body come from the Salt Lake Church to the reorganized church for membership? A-Yes sir

I676 Q-How many? A-I couldn't tell you.

I677 Q-Well about how many? A-I could not say,but quite a number. We emigrated eight hundred this way one year under the aid and with the assistance of some government official.

I678 Q-About what year was that? A-Well I could't tell you the date of that either. The first missionary we sent out there was in I863,and from that time on we have been doing evangelical work there,and have been preaching to them ever since.

I679 Q-What do you require of members of the Utah church who come to your church for reception? A-If they have been baptized in my fathers day,we simply require them to identify their baptism,and receive them all on their baptism the same as we do any one else.

I680 Q-Have you required this from all the converts you have made in the Utah church,-that is have you required them to establish their baptism in the original church? A-Yes sir,-if they were baptized in the old original church in my fathers day,they were received into the reorganized church on that baptism.

I681 Q-They are received into the different districts or branches in that manner? A-Yes sir.

I682 Q-Have you any rule governing the admission of these converts or accessions to your numbers in the districts or branches? A-We have had the general expression of the conferences on that question.

I683 Q-Well what has been the general expression of the conferencesupon it? A-It is substantially this,t that all who have been,or were baptized prior to I844,if sufficient evidence of the fact was presented they are considered eligible for admission into the reorganized church,but if they have been baptized since that time,we take into consideration the standing of the individual who baptized them,and his standing or authority to perform the rite of baptism, All these things were taken into consideration,and if there was any individual baptized,whose baptism the Spirit recognized,we could not deny him

I684 Q-Was that the case not-withstanding the fact that the man or person who baptized them,had not received his authority from the old church? A-We have never

presumed to question the legality of a baptism that we believe to have been made under the direct sanction of the Holy Ghost or the Spirit. It is not our province to question these things,therefore we do not do it.

I685 Q-Have you or do you recognize baptisms as performed by the Utah church as of that kind? A-No sir.

I686 Q-At no time? A-No sir-

I687 Q-And do not know? A-No sir.

I688 Q-If the testimony has been borne as you have told me.and the baptism is proved to have been performed in that way for an application from that church,what would be the modus operandi pursued in that case? A-I told you this,-that if there has been any applications in that way,they ha-ve been received on that principle but I know none

I689 Q-Although the party baptizing them was a member of the Utah church prior to the baptism? A-I will state our position again,-persons whose baptism has been certified to orally by witnesses as having been made before the death of Joseph Smith are received on that baptism,but persons who have been baptized in these other factions or organizations which the reorganized church does not recognize,but who come to us for admission into our church are not received on that baptism,In the one case we do not question the baptism for it is not our province to do so,and in the other we do not accept it unless they are persons who were baptized in the original church before the dispersion,and although they have gone off with one of these factions,if they come to us with pentience and a desire to atone for their transgression we receive them on their original bap tism.

I690 Q-Is that a fact although they-were baptized by the Utah Church or by some one authorized to administer baptism in that church? A-As you do not seem to understand me I will make my statement again.

I69I Q-Well it is not necessary to state it again. I asked you if assuming that to be a fact,or what you state to be a fact,I want to know if the individual who performed it was an official in the Utah church ,and the man had been received into the Utah church ,you would renounce that baptism,and would not recognize it? A-Yes sir,and we would do-the very thing if it was a baptism of any of the other churches. It matters not what organization or so called faction of the church it might he,we would do the same,-the same course is pursued uniformally in all such cases.

I692 Q-Well,that is clear. How do you receive members into the reorganized church any how? A-We receive them if they have been members of the old church up their original baptism,and they are received by a vote. Suppose for an example that John N. Southern had been a member of the original church,and he should desire to become united with the reorganized church,and should present himself before a branch, or before the conference as the case might be,and it should be known to any person present that he was a member of the original church,we would receive him upon that recognition by the uplifted hand, and order his name enrolled amongst the names of the church members.

I893 Q-Well suppose that in I837 or I840 if you had followed Brigham Young and had gone to Utah,-suppose that John N. Southern had done that,instead of your self,-and had been a member of the church there,although a member of the old church,would you have received him? A-If he had come back to us penitent for his action, we most assuredly would receive him,and we would have killed the fatted calf in token of our joy at his return. Those are the very

kind of cases we rejoice in welcoming.

I694 Q-Would you make an inquiry of it about him,other than you would about other people? A-No sir,he would be subjected to no more rigid test than others.

I695 Q-You would not? A-No sir-,I don't see how we consistently could.

I696 Q-Not-with-standing the fact that he had been a member of the Utah church? A-No sir,-we make no distinctions,-we could not do-that. He would be received like all others on his original baptism.

I697 Q-Would you ask him regarding his repentance or re-quire a confession of his error from him? A-Certainly he would have to acknowledge his error,and show to the satisfaction of the body passing on his case that he was repentant for his course,else he could not be received,but upon that showing we would welcome him.

I698 Q-You would expect to have him exhibit repentance for his course then? A-Certainly,he would have to exhibit his penitence for his transgression.

I699 Q-And that he had left those ways? A-Yes sir,that he had forsaken the path of his transgression.

I700 Q-Andd that could he shown by himself,-he could show it by his own statement? A-Yes sir,and by his conduct,and the testimony of others in good standing in the church who knew the facts. Testimony corroborative of his statement could be borne at the same time by those who knew him,and knew of his deportment.

I701 Q-If that individual had held an office in the Utah Church,-an official position,and had been ordained to that official position would you recognize his official position upon his uniting with the reorganized church? A-Would you do what,-I don't understand the question,for I did not hear it properly.

I702 Q-I asked you if an individual should come to your church,-the reorganized church,seeking to be admitted to its membership,who had been a member,or was a member of the Utah church,and had been appointed or selected to an official position in that church to which he had been duly ordained ordained by the proper officials in that church to conduct such an organization,would you recognize the official position he had held in the Utah church upon his becoming a member of your church in the form and manner indicated in your former answer? A-No sir, unless it was a position to which he had been ordained prior to the death of Joseph and Hyrum Smith.

I703 Q-If there was an office or position to which he had been ordained after the death of Joseph Smith you would not recognize it? A-No sir-

I708 Q-Then it is a fact Mr Smith that if he fell away from those doctrines,which you say were taught and practiced in the old church,and had gone off with one of these factions and had acted with them for years,and if he had been a person holding a high position in the original church prior to the death of your father,you would not consider this fact of his falling away from the true church as robbing him of any one of the attributes with which he had been originally invested upon being ordained to his office in the days of your father? A-No sir.

I709 Q-How do you recognize that position with justice and equity Mr Smitth? A-We base it upon the principle stated by Ezekiel,that"if the wicked man forsake the evil of his ways,the evil thae he has done shall not be remembered against him",-that is the substance of the principle we act upon.

I710 Q-Then it is a law of your church in receiving members from

these other factions,as you term them,that when they come back to the reorganized church for reception, that their apostasy,so called is not destroyed,-has not destroyed I should say,-nor made void,the official functions which inhered in them at the time they received the gift of those functions in the church prior to the death of your father? A-Now if you will permit me and give me time I will make this as clear as I can,so you can understand it.

I7II Q-Well sir you have my consent to do so? A-An individual who was an officer in the church in my fathers day,though he may have fallen into transgression,should he return to what we understand to be the proper church,the question upon his reception, and the nature of his standing would be determined by what the man had done,-that is what the man had been bfore his transgression,and what his office had been in the church to which he had connected himself,and the question would arise if under the circumstances it was not deemed proper nor wise,his standing would not be recognized,and if it should be recognized by the body that he is entitled to recognition as an officer,it must be done by a vote of the people in the reorganized church properly had and presented. That is the course that would have to be pursued.

I7I2 Q-And do you add to that answer"another ordination? A-Yes sir and another ~~affirmation~~ re-affirmation of his authority?

I7I3 Q-Is it an office that requires ordination,if you require an reordination? A-It requires a re-affirmation of the office he held.

I7I4 Q-Is that a rule of your church? A-It is a rule or custom which ever you may choose to call it%

I7I5 Q-I asked you if you required under these circumstances another ordination,and you answer that it requires a re-affirmation. Now what I ask is,does it require another ordination,if he had been ordained before? A-We require that his authority shall be re-affirmed on him,or in him.

I7I6 Q-Will you please answer the question? A-I think I have.

I7I7 Q-Well I don't think so? A-What is the question?

I7I8 Q-Under these circumstances would you require a reordination? A-We require that his authorite shall be re-affirmed in him or on him by a vote of the people.

I7I9 Q-Well how was that re-affirmation to be made? A-By the laying on of hands and setting him apart to act in the office to which he has been re-affirmed.

I720 Q-Is that a method of ordination? A-Yes sir.

I72I Q-That is the method that would be pursued in this case? A-Yes sir-

I722 Q-Now you say you require a re-affirmation or ordination of men who come from other branches or factions of this church as has been detailed here, and now I want to raise this question,-were those men who were assembled in I852,-were they ordained, -the men who assembled there together in I852,and was the ordinance of reordination performed at that time on them or any other time? A-I could not say as to that.

I723 Q-You don't know whether they were re-affirmed or re-ordained,or anything as to that? A-No sir I do not.

I724 Q-Is it not a fact that the majority of the church or of the people who assembled at Newark,Wisconsin in I852,came out of the Strang faction,or "Strangites",as they were called? A-I couldn't say.

I725 Q-You can't say as to that,for you were not there? A-No sir,I was not there,therefore I cannot say.

I726 Q-You don't know then whether or not it is a fact that the most of the people gathered there at that meeting belonged to the Strang faction? A-No sir,I could not say,I have heard that there was some,-in fact I know there was some there that belonged to that faction,but how many there was of them I could not say.

I727 Q-I believe you have described how they came togeth-er of their own accord and organized themselves in to a confrernce in I9522 A-Yesterday you had it impressed upon your mind in some way the original initial movement occured in I852,but it was in I85I that the movement began in different places,but they after some negotiation agreed upon a meeting or conference in I852,and in pursuance of that agre-ement that met at Newark.

I728 Q-They came together there voluntarily,each individ-ual acting for himself? A-Yes sir,they met there, and effected the reorganization of the church.

I729 Q-I believe that is all I have to ask you Mr Smith

Redirect examination by Mr Kelley,-

I730 Q-You were asked in your re-cross examination Mr Smith as to whether or not you did anything in the way of disciplining these recalcitrant members of the original church,and to that you answered you did nothing. Q-Now I will ask you what the reorgan-ized church did or does with reference to re-claim-ing these members? Or those parties I should say? A-With reference to reclaiming them?

I73I Q-Yes sir,-with reference to their re-claimation,- or trying to accomplish that end? A-We sent missio-naries to them and also issued pamphlets and circu-lated them so far as we could among them both in Utah,and amongst those persons who were travelling to Utah,on-the cars and elsewhere. We also station-ed an ambassay at Kansas City,Omaha and Florence, and members of the church at Nebraska City attended to the work there,and tried to intercept all the converts we could while travelling on their way-to Utah. We guarded and watched all the crossing poin-ts on the Missouri River to try and restrain and re claim parties,and we have had a missionary in Utah ever sine I868.

I732 Q-Is that same thing true with all these different factions,-what you have been stating about the eff-orts made ~~in regard to them and~~ on behalf of the Utah faction? A-We have not made the same effort in regard to them that we have made in Utah,althou-gh we have held meetings in their neighbourhoods.

I733 Q-Have you sent elders and missionaries to them? A-Not in any special way,but in travelling when they could do so they have went to them,when they could visit them.

I734 Q-Well what has been the result of these missionary efforts? A-Well in reference to Utah,we have gath-ered a good many members in from there,and large numbers from the fragments of these other organiza-tions. The census of the United States in I880,if my memory serves me right reports eight hunderd "Josephites"in the territory,besides those that came out. We have organizations at different plac-es there,and missionaries still there.

I735 Q-I will ask you if the "Josephites"in the territo-ry of Utah,are all monogamists,and have been since their connection with the reorganization of this church?? A-They have been so far as it has come to our knowledge at all.

I736 Q-I will ask you Mr Smith if you have ever known of an instance,as you term it,of the Holy Spirit,certi-fying to a baptism,or to the fact of baptism,-to the validity of a baptism that was performed by any per-son not properly authorized in the original church or properly authorized in the reorganized church?

A-No sir. Not such an instance has ever come under my own personal observation.

Re-cross examination by Mr Southern,-

I737 Q-I want to ask this question,-How could the church reorganized in I852 reclaim that which had never be longed to it? A-If the position assumed by the re-organized church was correct,they stand in the posi-tion,or in relation to those who were members of the original church in I844 and prior to that time,that the Catholic church does to its membership ,-though the may be scattered,and belong to other churches,yet the mother church never renounced its claim upon her children,and we claimed they were in error and we made an effort to redeem them,-or recliam them I should say.,We hold that they were members of the olh church,and for that reason it was our privelege and duty to make this effort for their reclaimation.

I738 Q-Then it is not right to say that you reclaimed persons and brought them back to your church,wh had never been members of your church? A-Well that is a technical question that I don't pretend to determine."

I739 Q-Now you say you never heard anything other than that a Josephite was a monogamist,-you never heard of one being other than that? A-No sir.

I740 Q-Well now is it not a fact Mr Smith that the people out there are all monogamists,and those among them who are polygamists are keeping it rather dark just at the present time? A-Yes sir.

I74I Q-And have been keeping it rather dark for several years,-they are not going around on the street corners and from the house tops proclaiming the fact that they are polygamists? A-I should think not.

I742 Q-But on the contrary they are keeping it as dark and quiet as they can? A-Well I should hope so.

I743. Q-Is it not a fact that men who have plural wives are not advertising that fact? A-No sir,for they are afraid of the Marshals.

I744 Q-And they have been keeping this quiet for several years? A-Yes sir. As a matter of fact though they were not very covert about it prior to '82.

I745 Q-And is it not a fact that hte large majority of the Utah church were not polygamists? A-Well I could not tell you only so far as I gave credit to their statements in regard to it.

I746 Q-Well,how far did you give credit to their statements?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immeterial,and is nor proper re-cross examination.

A- I will answer the question if you wish-it?

I747 Q-Well is it not a fact that none of these various branches of the Mormon church at the present time, claim to practice polygamy? A-Not if we credit what they state about it.

I748 Q-Not if we credit what they state,-is that your answer? A-Yes sir,for personally I do not know any thing about it.

Counsel for the plaintiff objects to the question asked for the reasons and on the grounds that the same is incompetent,and immeterial,and improper re-cross examination,and moves the court to exclude

.....

Sworn to before me on this day,within the hours and at the place in that behalf first aforesaid,and subscribed in my presence this day of I892.

.....
Notary Public.

Ms d 1160 Box 1 fd 4

William B. Smith of lawful age, being produced, sworn and examinddd on the part of the plaintiff herein, testified ~~xxxfuxixuxxxxx~~ deposeth and sayeth as follows, to wit,-

Direct examination by Mr. Traber,-

I Q-What is your full name? A-My name,- my full name?
2 Q-Yes sir? A-My name is William B. Smith.
3 Q-What is your age Mr. Smith? A-~~Fifty years.~~ Eighty years.
4 Q-Where were you born Mr. Smith? A-I was born in Royal Town, Vermont.
5 Q-How long did you live ther? A-I dont recollect that I lived there more than ~~xixxxxxxxxx~~ four or five years, I came away from there when I was quite young.
6 Q-About how old were you when you left there? A-Probably not over four or five years.
7 Q-Who was your father? A-What is that?
8 Q-What was your father's name? A-Joseph Smith.
9 Q-How many children was there in the family? A-Seven.
I0 Q-There was seven children in the family,-in your father's family? A-Yes sir, ~~xxxxx~~ that is if I have counted them all up right If I re~~x~~ them I would not make any mistake.
II Q-Do you belong to a church organization? A-What organization do you mean sir?
I2 Q-I asked you if you belonged to a church organization? A-Yes sir.
I3 Q-What church do you belong to? A-I belong to the reorganized church at the present time, in my present church locality.
I4 Q-What is the full designation of that church by name Mr. Smith?
I5 ~~xxxxx~~ A-The church of Jesus Christ,-the re-organized church of Jesus Christ of Latter Day Saints.
I5 Q-When was that church founede? A-As near as I have any knowledge of its history, it was some time in '6I or '62,-I couldn't say positively when it was, but it was along about those years somewhere. I could not state postively when it was for I was not there at the time.
I6 Q-When was the church founded of which this was the re-organization? A-It was founded in I830.
I7 Q-Founded ~~by whom~~? A-Who was its founder?
I8 Q-Yes sir? A-Joseph Smith.
I9 Q-Who was Joseph Smith the founder of that church? A-He was the son of my father ~~xxxxxxxxxxxxxxxxxx~~ Joseph Smith and a brother of mine.
20 Q-Were you a member of the original church? A-I was.
2I Q-When did you first become identified with the original church? A-In I830.
22 Q-Where did you first become identified with it? A-In the state of New York, near a place called Fayette.
23 Q-How long did the church remain at that place as a body? A-They moved away from there in I83I.
24 Q-To what place did you go from Fayette, New York? A-To Kirtland Ohio.
25 Q-Was there a church organization at Kirtland Ohio, at that time? A-There was a considerable number of that class of people there.
26 Q-At that time? A-Yes sir.
27 Q-What year was that, if you remember? A-That was in '3I.

28 Q-How long did you remain at Kirtland? A-At Kirtland,Ohio?
28 Q-Yes sir? A-From '3I to near 2'37or '38.
30 Q-That is when you were at Kirtland? A-Yes sir.
3I Q-To what place did you go from Kirtland, Ohio? A-From Kirtland where did we go from there?
23 Q-Yes sir? A-We came into the state of Missouri.
33 Q-Did all the people identified with the church at Kirtland, Ohio ~~xxxxxxx kx~~ remove to Missouri at the same time? A-No sir, but there was a pretty general movement.
34 Q-There was a pretty general movement you say? A-Yes sir, but there was probably a few who did not come but remained behind at Kirtland. The removal was pretty general though.
35 Q-To what part of the state of Missouri did they come? A-They came to Caldwell County to a place now called Far West.
36 Q-What place did you hold in the church at that time? A-I was recognized as one of the twelve apostles. Under that organization I was recognized as one of the twelve apostles.
37 Q-That was your official position? A-Yes sir.
38 Q-How long did you continue to hold that ~~xxxxxxx~~ official position under that organization? A-I occupied that official position up to the time of my brothers death.
39 Q-Which brothers death? A-Joseph Smith and Hyrum Smith.
40 Q-And what occured then? A-That occured,-they were murdered in I844,-on the 27th day of June I844.
4I Q-After the death of your brothers Joseph and Hyrum Smith, what position did you hold in the church, if any? A-I considered that'I still held a right to my apostleship, and therefore continued to preach, and make known to my people the truth according to the doctrine that I had received.
42 Q-That was after Joseph's death? A-Yes sir.
43 Q-In what part of the country did you hold forth? A-During that time it was in the County of Lee in the state of Illinois at a place known as Rocky Ford of the Inlet.
44 Q-How far is that from Nauvoo? A-Well I don't know, but I should judge probably eighty miles.
45 Q-How did it happen Mr. Smith that you went from that place to Nauvoo alone?
By Mr. Southern,-
46 Q-He did not say that he went from Nauvoo there alone or any other way".
By Mr. Traber,-
47 Q-Well I traced him to Nauvoo, and asked him where he was next and he told me. But I will ask the question. Did you go to Rocky Ford of the Inlet,-this place you spoke of? A-Yes sir.
48 Q-Well, that is what I thought. Now who of the church went with you? A-There was no one but one particular man named Aaron ~~Xxxxx~~ Hook.
49 Q-Who was Aaron ~~Xxxxkx~~ Hook? A-Well he was an elder in the church.
50 Q-Was he an elder in the church at the time of the death of your brother? A-Yes sir.
5I Q-From what time? A-I don't know how long he had held that position, but he was an elder in the church, ^under the supposition as I understood it that he was an elder in the church.
52 Q-How did it happen that he was the only one that went with you Mr. Smith? A-I suppose because about that time the seperation had taken place between me and the balance of the qurom of twelve., for a certain opposition had sprung up between me and them because of certain practices they were guilty of.

being a fellow laborer in the church
he recognized here

53 Q-You may state what was the cause of that sep ration Mr. Smith?
A-The occasion of it?
54 Q-Yes sir? A-I don't know that I could answer that question prop-
erly.
55 Q-Well state the cause of the seperation or division as best you
can? I don't know that I could state it properly without
giving a discourse on it,and I didn't expect to have to
preach a sermon on that matter at this time.
56 Q-Well it is not necessary for you to preach a discourse on it,
but simply to state the cause as briefly as you can? A-Well
it was because I thought the party that I had absolved myself
from, had changed the doctrine of the church in a ax manner
that the teachings of the church did not justify.
57 Q-In what repect Mr. Smith? A-Well in respect to several things
and especially in respect to the marriage relation.
58 Q-When did that trouble first arise? A-The first time I noticed
it was in 1845.
59 Q-At what time? A-At Nauvoo.
60 Q-And that was at Nauvoo? A-Yes sir,- in 1845 at Nauvoo.
61 Q-You refer to the practice ~~xxxxxx~~ of polygamy? A-Yes sir.

62 Q-Who were the principle participants in it? A-Well there was
Brigham Young and Heber C. Kimball and John T Taylor and Wil-
liard Richards, and I might add still further Orson Hyde and
Parley P. Pratt.
63 Q-These were the ones who were the principle participants in that
doctrine? A-Yes sir, and there were others.
64 Q-Do you know whether or not the church had a bishop in 1832?
A-Had what?
65 Q-Had a bishop in 1832? A-Whether the church had a Bishop in
1832? I am a little deaf and you will have to speak loud.
66 Q-Yes sir, that was the qiestion as to whether or not you know of
your own knowledge that the church had a Bishop in 1832?
A-What you want to know is whether or not I know that the
church had a Bishop in 1832?
67 Q-Yes sir, whether or not of your own knowledge you know that the
church had such an officer as a Bishop in 1832? A-I know it.
68 Q-Well did the church have such an officer as a Bishop at that
time? A-Yes sir.
69 Q-What was the name of that person who acted in the capacity of
a Bishop of the church in 1832? A-Edward Partridge.
70 Did you know him personally? A-Yes sir.
71 Q-Where did he then he live? A-He lived in Kirtland, Ohio.
72 Q-Where did he go from Kirtland, if you know? A-From Kirtland he
came to Jackson County Missouri.
73 Q-In what year did he come from Kirtland to Jackson County Missouri?
A-It was in 1832,-probably some time between 1832 and '33.I
think though it was in '32 if my memory serves me right.
74 Q-What were the functions of the office which he held? A-To hold
the treasures of the church, and to have it at his command,
and to dispose of it according to the directions of the
Council of the church in C onference.
75 Q-How long did he continue to hold that position? A-I think he
held that position up to the time of his death.
76 Q-Do you know what the occasion of his coming to Missouri was?
A-Yes sir.
77 Q-You know that? A-I think so. I do.
78 Q-To go back, you say you think he held the position of Bishop

the church up to the time of his death,- that is Edward held held that position in the church up to the time of his death? A-Yes sir'

79 Q-I will now ask you the time of his death? A-I cannot tell you sir. I do not recollect and I cannot tell you, for I don't know the time of his death. I do not recollect when it ~~your~~ x xir occured sir, for I lost the history of ~~his death~~ the man in relation to the time of his death sir.

80 Q-Now you said you knew the cause or the occasion of his coming to Jackson County Missouri? A-Yes sir.

81 Q-Well please state it? A-What caused him to come to Missouri?

82 Q-Yes sir? A-He was authorized by the church at Kirtland, Ohio, after collections of money had been made for the purpose of going here into Jackson County, Missouri., and purchasing land for the church, and especially to purchase a place for a temple lot.

83 Q-What do you know, if anything, about any particular parties who contributed to that fund? A-The parties concerned in relation to raising that fund. I don't know that I under stand your question sir.

84 Q-Well sir your statement of the question is correct? A-I call to mind while we enlisted an especial member of the church to attend to the purchase of the land for the church, that the other parties who were interested in relation to money matters in connection with that fund, were Sidney Gilbert, N.K.Whitney, F.G. Williams, John Carl, William Marks, Juno Carter, Reynolds Cahoon(or Calhoun) and Titus Billings. These were the persons that were interested in raising the funds to be lodged with the Bishop,- that is with Bishop Partridge, for the purpose of coming up here to make the purchase of the lands in Jackson County Missouri. I was acquainted personally with these men who were some of the original first members of the church, or amongst the first members of the church.

85 Q-Who was William Marks? ~~Kr~~ What office, if any did he hold in the church at that time, and where did he hold it? A-He was recorded as an high priest.

86 Q-Did the other persons of whom you have spoken, hold positions of trust in the church, or did they have any office? A-I could not say.

87 Q-You do not remember now whether they did or did not? A-I could n't say say whether all of them did or not, but they were the ones who were appointed or selected to gather together this money for the purpose of lodging it in the hands of Bishop Partridge, and he was to proceed to Jackson County Missouri and purchase this land, which he afterwards did. I know that they were all members of the church in good standing, and amongst the first members that the church had, and I think N.K. Whitney was an officer.

88 Q-What officer was he? A-I do not recollect, but I think he was an elder or an high priest or something like that. Jared Carter was also an elder, or minister or preacher, and Reynolds Cahoon was also an elder, and Titus Billings, I do not recollect that he was anything but a common lay member of the church, But I recollect that he had something considerable to do with the raising of the funds and fitting out Bishop Partridge for his mission in settling the church here in Missouri in Jackson County.

89 Q-Did ~~he~~ you come to Missouri? A-At that time?

60 Q-Yes sir? A-No sir, I did not.

91 Q-Did you ever come at any other time? A-I did.

92 Q-When did you come to Missouri? A-It was some time in '37.

93 Q-To what part of Missouri did you come? A-Well that was in

Caldwell County at a place known as "Far West"
94 Q-You did not visit this part of the country at that time did you? A-No sir, I did not.
95 What became of William Marks, finally,if you know? A-Yes sir I do know what became of him.
96 Q-Well if you know, as you say you do,you may state what became of him? A-William Marks moved away from Nauvoo and settled into a section of country known as well as I can remember as,- at a place called Shavona Grove. He exchanged some of his property at Nauvoo for property at Shovana Grove, and lived there
97 Q-Where was this place you call "Shavona Grove"? A-It was in Illinois.
98 Q-How long did he remain there? A-I could not tell you that. I don't know how long he was there, but the next of him I know after that, was his uniting with the re-organized church
99 Q-At what place was that Mr. Smith that he united with the re-organized church? Why I am not particularly well posted on the history of that, but if I speak from what impression or knowledge I have on the subject, I think it must have been at Plano, Illinois.
100 Q-It was at Plano Illinois that he united with the church? A-I am not postive,but I said that if I spoke from what impression or knowledge I had on that subject that it was Plano,Illinois ,- or at that place that he was united with the reorganization but as to that I would not be postive, although I think it was there.
101 Q-About what time was that? A-Well I cannot be postive as to that either,but I think it was about in '62.
102 Q-In 1862? A-Yes sir,- in the neighborhood of '62/or '63,-some where along there.
103 Q-You do not know how long he might have been connected with the church prior to your information about it,do you? A-With the reorganized church?
104 Q-Yes sir? A-Oh I say it is ~~xxxxx~~ my opinion that he was still retaining his connection with the reorganized church up to ~~t~~ the time of his death. He was in the church at the time of his death.
105 Q-Well I understand that Mr. Smith, but you evidently do not understand my question. What I mean to ask you is that he might have been identified with the re-organized church? A-Is that your question?
106 Q-Yes sir? A-Yes sir.
107 Q-Then he might have been in the reorganization some little time before you knew it? A-Yes sir.
108 Q-You first knew he was a member of the re-organized church I believe you ststed some where along about 1862 or '63? A-Yes sir.
109 Q-Now where were you residing at the time of the re-organization? A-I was residing at Lee county Illinois,at this place called Rocky Ford of the Inlet.
110. Q-How much of a following did you have at that place? A-I had about thirty members,-that is that were just at that place.I think that the Conference statictics as a general thing numbered up some where between thirty and fourty membord.
111 Q-Well when did you become identified with it? A-Well I could not tell you the day of the month,or even the month or years but it was something like sixteen years.
112 Q-About sixteen years from now? A-Yes sir. I think that is about it, as near as I can guess at it. I cannot say any closer

than that for I never kept any particular account of the day of the month, or the year that I united with the re-organized church.

113 Q-At what place did you untie with the reorganization? A-At Plano Illinois.

114 Q-You united with the re-organized church at Plano,Illinois. A-Yes sir.

115 Q-What became of your congregation? A-Well sir I turned them all over as far as I was concerned into the hands of my Nephew.

116 Q-What was your reason for doing that? A-Because I recognized him as the legal head of the church,-the legal President of the church.

117 Q-The legal President of what church? A-The original church of Jesus Christ of Latter Day Saints.

118 Q-When you say your knephew whom do you mean? A-I mean Joseph Smith. The man known by that name.

119 Q-The Joseph Smith who has been testifying in this case? A-Yes sir.

120 Q-Is there any portion of that organization now in existance as a seperate body? A-What organization?

121 Q-The ones that were identified with you? A-Yes sir.

122 Q-There is not? A-No sir.

123 Q-What has become of them? A-They all united with the reorganization excepting two men, and they are both dead,-a man by the name of Aaron Hook and Royal Tucker,-they did not come into the re-organization but remained outside and they are both dead.

124 Q-Do you understand Mr. Smith the church doctrines,as taught by the original church? A-So far as what is recognized as the first principles of the gospel I do.

125 Q-Are you familiar with the doctrines as taught by the reorganized Church of Jesus Christ of Latter Day Saints? A-I am partly so,- only partially so.

126 Q-Do you hold any position in the Re-organized Church of Jesus Christ of Latter Day Saints? A-Yes sir.

127 Q-What position do you hold in that reorganization? A-Yes sir,I hold the position of high priest. I am an high priest in the Re-organized Church.

128 Q-I believe you stated you were an apostle in the old church? A-Yes sir.

129 Q-Then holding these positions as you do,did you have a right to preach the gospel to the church? A-Holding the position as an high priest,ans as I had not understood that I had lost any right to my apostleship whatever,with all the means of the apostacy of any other portion of the church, for I had still retained my faith in the original doctrines of the church. I claim I had the right under that apostleship to continue to preach and to baptize and make administrations under the order that I had received originally from the original church.

130 Q-Now you may explain what differences there are, if any,between the doctrine of the original church, and the doctrines as taught by the Re-organized church?

By Mr. Southern,-"I want to object to that question of the part of the defendants, because the witness has not in response to question asked him, shown himself qualified to give the opinion sought for,- in other words I object to the question that the witness may give to it, on the ground that the witness has not shown his competency to answer same".

By Mr. Traber,-

131 Q-Do you feel competent to answer that question Mr. Smith?

Will you please repeat the question.

I3I Q-I asked you to explain what the differences are, if any, between the doctrine of the original church as it existed in the days of Joseph Smith your brother.,and the doctrine as taught and practiced by the Re-organized Church to which you now belong? Now you can answer that question Mr. Smith if you feel competent to do so? A-There are three or four propositions that were introduced into the church under the counsel of the remaining twelve,-

I32 Q-Well hold on Mr. Smith,-that is not responsive to the question asked you,-

By Mr. Southern,-

I33 Q-Well go on and answer the question in your own way. and if I think it is not responsive to the question I will object to it,but if I submit that the witness should be permitted to answer the question in his own way without interruption.He knows what he is about for he is a smart man, and knows what he says. Go on and finish your answer?

By Mr. Traber,-

I34 Q-Well go ahead Mr. Smith?- A-And one ~~one~~ point was that had never taught previous to that time,and it was that Adam was God, and saying also in the different dispensations that Moses was also a man God,and another was the introduction of the doctrine of blood atonement, and that if a man obeys the propositions,- or I meant to say if a man disobeyed the propositions of that council why he had to pay for it by the forfeiture of his life,and atone for the sin by the shedding of his own blood,or allowing to be shed by others. That was the doctrine of blood atonement and it had never been taught in the old church, nor had the Adam God doctrine ever been taught in the old church,and hence they,brought the matter down to the Adam God doctrine and the Moses God doctrine,and finally these men that were left or composed the twelve at that time brought in Joseph Smith as another God,-as one of their Gods

under the Adam God doctrine and blood atonement doctrine. and another point was the marriage question in regard to the plurality of wives, which was never taught before, previous to the death of Joseph and Hyrum Smith,my brothers,These new doctrines that I speak of were what caused the seperation between me and that body of the people.

I35 Q-Were those doctrines taught prior to I844? A-Do you ask me if they were taught previous to that time?

I36 Q-Yes sir? A-No sir.

I37 Q-They were not taught previous to I844? A-No sir, they were not and it was the teachings of the doctrines that caused me and the people who went with me to seperate from that body of the people who held to these doctrines.

I38 Q-Did the Re-organized Church of Jesus Christ of Latter Day Saints ever preach that doctrine? A-No sir.

I39 They never at any time preached that doctrine, or these doctrines? A-No sir, not to my knowledge.

I40 Q-Then what branch,if any,of the Mormon church did preach it? A-They are called the Utah Mormons.

I4I Q-Now Mr. Smith I am going to ask you the question that I asked you a little while ago,but which you did not seem to understand.I want to ask you what the difference is,or was, if any,between the teachings of the church subsequent that is after,-I832 or I830 say, and the teachings of the Re-organized Church of Jesus Christ of Latter Day Saints as they are now taught?

By Mr. Southern,-"That question is objected to now for the same re-

easons that it was objected before, to wit;-for the reason that it calls for an opinion of the witness, which he has not shown in his previous examination he is competent to give. That is the ground of my objection on behalf of the defendant in this case".

By Mr. Traber,-

I42 Q-Do you hear very well Mr. Smith? A-No sir, I don't hear very well. I am rather deaf, and you will have to speak plainly and loud for me to understand you.

I43 Q-Were you acquainted with the doctrine as taught in the original church from I830 to I844? A-I think I ~~am~~ was.

I44 Q-Well you will have to answer that question yes, or no? A-Yes sir, I was well acquainted with the doctrine of the church from '30 to '44.

I45 Q-That is the doctrine as taught in the original church? A-Yes sir

I46 Q-Are you acquainted with the church doctrine since I844? I mean Mr. Smith by that question the doctrine as taught by the Re-organized church? A-Yes sir.

I47 Q-Well what is the difference if any, as between the doctrine taught in the Original Church, and the doctrine as taught in the reorganized Church of which you are a member? A-I understand that the doctrine of the Re-organized Church of Jesus Christ of Latter Day Saints, is a perfect representation of the doctrine as taught by the original church founded in I830. I have no knowledge sir of any difference in the relation to the doctrine being taught by the reorganized church from that taught by the original church from I830 down to I844.

Cross-examination By Mr. Southern,-

I48 Q-I want to explain Mr. Smith before commencing your examination on the part of the defendant that I propose to treat you with all due respect,- A-I understand. Of course I don't propose to be treated in any other way except that is gentlemanly.
Of course I know that as far as education is concerned, mine may not be the equal of yours or quite as good as that of the counsel in the case, but still I have a little memory yet, and know a thing or two. I may not be competent to answer the questions that have been asked me, but still however that may be, or what your opinion may be on that subject I think I am.

I49 Q-Will you permit me to make an explanation? A-Yes sir, I am sure I have no objection to your doing so.

I50 Q-Well then permit me to explain that you entirely and wholly misunderstand me. You entirely misapprehend my meaning in making those objections, for instead of saying you were not a competent witness, I said you were a very intelligent witness a smart man,-and knew what you were saying and how to answer questions that were asked you, but I said with reference to the question that was asked you, and so which I objected, you had not shown by your previous examination that you knew enough on that subject to answer the question in a way that would render it admissable on the trial in this case. Now that is what I said, for I have nothing in the world to gain by imputing want of knowledge in you sir, I make this explaination to Mr. Smith merely because he is an aged gentleman and eighty years of age, for if he was a young man, I would not make it. Now Mr. Smith I will proceed with my cross-examination. Mr. Smith will you please state what was the name of the church of which you became a member before you came to Kirtland, Ohio? A-I have stated that.

I61 Q-Well what was the name of that church at that time? A-It was called the Church of Christ.

I62 Q-Will you please state at what point you became a member of that church? A-Well it was in 1830.

I63 Q-Well were you baptized? A-Yes sir, I was baptized by Oliver Cowdery in Seneca Lake, and confirmed at old father Whitmer's in 1830 as a member of the church. I could not state the date that this took place for my private journal is not here, and if I had it I could tell you exactly when it was. I could tell you when the day of the month and year.

I64 Q-That was in New York State? A-Yes sir.

I65 Q-Will you next state when and where you at first became an office bearer in the church? A-I think it was in '32. I was admitted then to what was known in the ordinance of the church as a teacher.

I66 Q-Simply as a teacher? A-Yes sir.

I67 Q-That is what the office to which you were admitted or called was known? A-Yes sir, it was so denominated at that time?

I68 Q-And that was some time in 1832? A-Yes sir.

I69 Q-At that time you were admitted to an office in the church called "teacher"? A-Yes sir.

I70 Q-And that was in 1832? A-Yes sir, that is what I have said three or four times.

I71 Q-How were you admitted or received into that office? A-By being ordained and accepted into that office as a teacher in the church. That was done by the sanction of the church.

I72 Q-What church? A-The church at that time was called "The Church of Christ".

I73 Q-At what time in the history of the church do you refer to as the time when the church was so known? A-In 1832.

I74 Q-At what point were you ordained and received as a teacher? A-In Kirtland, Ohio.

I75 Q-Were you inducted into office at a general conference of the church? A-Yes sir.

I76 Q-How many members did the church contain about that time? A-At Kirtland about that time I should think there was probably some where three or four hundred members.

I77 Q-And were they all members of the one organiza tion? A-Yes sir.

I78 Q-And did they all worship at the one place? A-They did so.

I79 Q-Was there at that time any other organization of the same faith and order? A-Not under the name of the Church of Christ. There were other denominations though living in that section of country known as the Diciples, Methodists, and Presbyterians, and people that were worshipers, but there was no other church or organization acknowledged as the church organized in 1830.

I70 Q-How long was it after that, that there was another organization? A-What kind of an organization?

I71 Q-Another local organization? A-There was a man by the name of Brewster who claimed to have been appointed to one thing and another, and to give revelations and one thing and another of that kind, but I don't know that he had much of a following. That was a man by the name of Brewster, and a son of his and I suppose his family, and I learned afterwards in history that there was some two or three families associated with him.

I72 Q-What did they do? A-They claimed that they were the appointed church. They claimed that they were a church organized by themselves., I do not recollect that they attempted to come in under

the colors of the church of Christ.

I73 Q-Well did this Church of Christ at Kirtlandin I832,spread out and have other ~~branches~~ organizations or branches at Kirtland and at other points? A-Yes sir.

I74 Q-It did? A-Yes sir.

I75 Q-When did that begin? A-That begun before '32,-that begun early in the season of '3I.

I76 Q-That was the time that the church of Christ began to spread out and have other organizations in other places besides Kirtland A-Yes sir. It was during the seasons of '3I and '32.Elders that had received the faith were appointed to travel in different localities and different parts of the country,and visited even the city of New York,Philadelphia and Boston in I832.

I77 Q-Well from I832 to I834 what was accomplished in that way? A-What was accomplished in that way?

I78 Q-Yes sir? Q-Well sir what was accomplished in that way was that there were hundreds of individuals you might say,who embraced the doctrine which was ~~organized~~ recognized under the name of the Church of Christ.

I79 Q-Do you know, or can you state, anything in the neighborhood of the number of the organizations that were formed prior to the year I835? A-Well I would think that it wouldn't fall much short of one thousand. One thousand or fifteen hundred. There was a great number of them established in these years up to I835.

I80 Q-That many members? A-Yes sir.

I8I Q-That was in I835? A-Yes sir.

I82 Q-Where, and when was the first conference held? A-The first conference was held,-do you mean the first conference that was held after the organization of the church?

I83 Q-Yes sir? A-It was held at Father Whitmer's ~~at~~ in Fayette County in the state of New York.

I84 Q-At what time? A-On the 6th of April.

I85 Q-In what year? A-I think it was held in I830. The first conference was held in I830 on the 6th day of April I think.I wouldn't be postive as to whether it was held on the 6th of April,but it was held at Father Whitmer's in Fayette County in the state of New York. That is the first conference I have any recollection of.

I86 Q-When was the first conference held after the church came to Kirtland Ohio? A-It had been the usual practice to hold conference on the 6th of April every year,but I do not know that I can remember as to the first conference that was held after we came to Kirtland.

I87 Q-You do not remember as to that? A-No sir.

I88 Q-Was there a conference held at Kirtland if you remember,in I832? A-Yes sir.

I89 Q-Was it at that conference that ~~were~~ you were inducted into the office of a teacher? A-Yes sir.

I90 Q-How were you elected to that office,or appointed to that office or how was that? A-I was elected to that office.

I9I Q-How is that parties are elected to that office,-how are they chosen? A-where the members of the church become satisfied that the individual is worthy of holding the office in the church, it is most generally signified by some means or other and the name of the person is placed before the Conference to be ordained to that office upon a recommendation being had as to his being worthy of holding an office of that kind in the church.

I92 Q-My question was with reference to the means, or by what means they were called to the office? A-I do not understand your question perhaps. I understood your question to be in respect to

the ordination of those officers especially that they were signified out by any special revelation. The person mentioned to the Conference or whose name in that way comes before the Conference for action, is generally well known, as is his reputation, and the Conference passes upon the question as to whether or not such persons shall be ordained according to the rules and ordinances of the church to become an officer in said church, and not by any special revelation under such circumstances.

193 Q-I was not inquiring as to how that was done now, but I was inquiring as to how it was done in your case in 1832? A-Well I have explained it I think. It was done by the consent of the church through the means of the Conference. It was done during the time the Conference was being held.

194 Q-By whom were you ordained as teacher? A-I was ordained as teacher by one of the first members of the quorom of twelve who afterwards left the quorom.

195 Q-Who was it? A-Luke Johnson and John Whitney.

196 Q-How long did you hold and exercise that office,-the functions of that office of teacher alone? A-Well I guess I held it about a year.

197 Q-What was the next office you held? A-Then I was ordained a priest.

198 Q-How was that done? A-It was done upon the same principles I have stated in relation to the church signifying by their consent that I should be ordained.

199 Q-And without any revelation I believe you stated? A-Yes sir, without any special revelation.

200 Q-Upon the church signifying its consent or approval in the manner you have indicated you were ordained an high priest? A-Yes sir.

201 Q-By whom were you ordained? A-I was ordained by Oliver Cowdery and John Whitmer, if my memory serves me right.

202 Q-At what Conference will you please state,-were you ordained? A-At the regular conference.

203 Q-I mean the conference of what year? A-Well that was in 1833.

204 Q-That was about 1833? A-Yes sir, I think that was the year.

205 Q-By whom at that time was the conference constituted? A-By my brother Joseph Smith, and Sidney Rigdon and persons occupying conspicuous positions in the church.

206 Q-Was there any lay representation? A-Yes sir.

207 Q-Was there any delegates sent up to the Conference at that time by the different branches of the church? A-Yes sir,-they were representatives there at the conference at Kirtland, Ohio from the different parts of the country.

208 Q-Then the Conference was composed as you have stated of ministers the priests and elders, and by delegates not holding any official position? A-The conference was partially composed of delegates that were sent in from different sections of the country, and persons who were not only members, but persons who at the same time were holding offices that came to represent the different sections of the country in the conference where they resided.

209 Q-They came to represent the different sections of the country where they variously lived? A- Yes sir.

210 Q-Then was any part of the Conference composed of others other than those who held offices in the different churches? A-The conference was occupied and composed of members of the church who came from different localities of the country to visit the conference. The conference was visited by lay members and also

by persons holding official station,-not alone those who held official station, but delegates came in who were simply members of the body.

211 Q-If as you have stated lay members attended these conferences,did those lay delegates take part in the proceedings of the Conference which they attended? A-Yes sir.

212 Q-They took part of,-in the proceedings of the conference which they attended in that way? A-Yes sir,-they were allowed to do so by vote of the conference.

213 Q-What kind of a vote was that? A-It was a vote of the Conference on that question.

214 Q-Well how was it taken? A-It was a vote of the Conference I say to the effect that all lay delegates should be permitted to take a part in the proceedings of the Conference,-the vote of the Conference was taken on that question.

215 Q-It was necessary that the vote should be taken? A-Yes sir.

216 Q-But if no such vote had been taken in any particular conference could they then in that case participate? A-Well I don't know. I don't believe that there is any class of people to which I would belong or represent that would be so destitute of the Spirit of Christianity as to forget the idea of that kind of courtesy towards their own brethern. A member of the church might come to a conference to see it,and not to take part in it actively,but if he wanted to take part in it I don't believe there is any conference would refuse to permit him to do so. I never knew of an instance of that kind where a conference refused this small act of courtesy to lay members or delegates to come in and participate in the proceedings of the Comference. It would have been a breach of Christian ettiquette that I don't think I would have been guilty of myself,and I don't think any conference that ever has been held would be guilty of it.

217 Q-Then as a matter of fact the priveledge that they enjoyed of sitting in the Conference and taking part in its proceedings and deliberations was an,-was because of the fact that the conference was courteous enough to extend to them an invitation to do so? A-Yes sir.

218 Q-Could these lay delegates make and second motions in the same manner as any other delegate? A-Yes sir.

219 Q-They exercised the priveledge of making and seconding motions in the same manner as other delegates or members of the conference, who were members of it by reason of their official position? A-Yes sir.

220 Q-Could they have done that unless they had ben invited by the other and official members of the Conference? A-No sir, they would not assume to take a position of that kind, without they were invited,and having been invited they claimed that they had that right.

221 Q-Then it is a fact that they sat in the conference as a matter of courtesy,-or by virtue of an act of courtesy extended to them by the other members of the Conference who were members of it by reason of the official positions they held in the church? A-Yes it was a matter of courtesy.

222 Q-It was ~~by~~ that and not by reason of an inherent right they had to take part in the deliberations of the Conference? A-Yes sir it was merely a matter of courtesy and good fellowship.

223 Q-Did the female members of the church attend these conferences?

A-They did.

224 Q-Were they also allowed to participate in the official consideration of matters before the conference? A-Never to my knowledge sir. They had the great and good privelodge of looking

225 Q-They were permitted to be present but did not have a voice in the consideration of affairs? A-Never to my knowledge. They had the great and good privelege of looking on, and sanctioning what they felt disposed to by their silent faith and recognition of the doctrine they had embraced.

226 Q-And you consider that was a high priveledge they had? A-Yes sir and without doubt they could thank God for that too.

227 Q-Well let that pass. Now when were you next appointed to office in the church? A-In 1835.

228 Q-Where? A-At Kirtland,Ohio.

229 Q-To what office? A-To the office of an high priest.

230 Q-By what authority? A-By what authority was I appointed or made an high priest?

231 Q-Yes sir? A-By the best of authority,-by the authority of a conference appointing and setting me apart as a person worthy of the office of an high priest.

232 Q-Is that all the authority? A-No sir.

233 Q-What else was there? A-The conference then set me apart as a member of the quorom of twelve.

234 Q-That was the way that was accomplished? A-Yes sir.

235 Q-And you were duly ordained? A-Yes sir.

236 Q-Were you ever raised or exalted to the office of apostleship? A-I never was ordained to any office higher than that of an high priest.

237 Q-You never was? A-No sir, but I was appointed by the conference as an apostle. We hold in the articles or ordinances of our church that an elder is an apostle, and especially is this so if he is an high priest, for then the nature of his office and position make him an apostle.

238 Q-By whom were you ordained as an high priest? A-By Sidney Rigdon and Martin Harris.

239 Q-How were you called to that office? A-I was called to that office that was by being made by the first Presidency of the church then. that there should be a quorom of twelve ~~officers~~ apostles,a pattern of them which had existed in the days of the old church eighteen hundred years ago, and men were appointed by that conference to fill that quorom,-or fill that office as members of the quorom of twelve. they constituted the apostles.

239 Q-If you will excuse me I will inquire,-although it may be repetition,-at what conference that was,-that is at what conference it was that that action was taken? A-That was in 1835.

240 Q-Then you date the organization of the twelve from April 1835? A-Yes sir.

241 Q-That was the time they were appointed? A-Yes sir.

242 Q-In pursuance of what authority was the twelve organized and appointed by the Conference? A-It was authorized,if I understand your question by the conference and the conference did appoint the persons who filled these positions. It was decided that the priesthood that was assembled there on that occasion,-The first President and the elders and the high priests,might by their consent appoint certain parties to fill the offices of the apostles and that was done,and they made up the quorom of twelve,-so called.

243 Q-Was there at that time any other quorom ~~other~~ than the quorom of twelve? A-There was another quorom. There was a quorom of

twelve then organized.

244 Q-Why was there another quorom.If there was one quorom organized why was there another one organized? A-I don't know that thdre was one organized besides that. That is the only quorom I remember anything about, and that was the only way it was organized,with the exception of members that died or something like that and then there places would be filled.

245 Q-When a member of the quorom would die how would the vacancy be filled? A-It would be filled in the same way by the appointment of some one to fill the place. It was done by the appointment of the church.

246 Q-Is there more than one quorom in the Re-organized church? A-Of twelve?

247 Q-Yes sir? A-No sir.

248 Q-There is a quorom of twelve,-ow is there a quorom of anything else in the Re-organized church? A-There is the quorom of high priests.

24 9 Q-Is there a quorom of anything else? A-There is a quorom of seventies.

250 Q-Is there any other? A-There is a quorom of the three first Presidency for the Church.

25I Q-How many quoroms is there in the Re-organized church? A-I could not tell you for I have not counted them lately.

252 Q-Well about how many is there? A-I couldn't tell you for I have'n't counted them lately. There is a quorom of seventy's.

253 Q-well now when did Bishop Partridge leave Kirtland? A-Edward Partridge was his name.

254 Q-Did you not say he was the Bishop of the church? A-Yes sir, he was at that time.

255 Q-Well when did he leave Kirtland? A-He left there in the summer of '32.

256 Q-Then as a matter of fact at the time that Partridge left Kirtland the quorom of twelve had not ben organized? A-No sir.

257 Q-Did Partridge ever return to Kirtland? A-Well I think he did although I would not be postive,for I am not conversant with his history after he came out here to Missouri or Jackson County. I can't say much about him after he came here and established the church here in Jackson County.

258 Q-Is he dead or living? A-He is dead I understand and I could not tell you where he died or anything about that. I am not acquainted with his historyany further than I know he was a Bishop of the church and was appointed to come out here and buy that land. I remember these facts well enough,but that is about all I do know about him.

259 Q-Did you ever see Partridge after he left Kirtland to come here? A-Np Sir.

260 Q-Did he ever return to the church after that? A-Well I think like enough he did,but at that time my mission was such that I was traveling most in the eastern countries, and he might have come back and visited Lamoni,-I mean Kirtland,-and I not have seen him.

26I Q-Now Mr.Smith can you give me the name of any one who gave Partridge money for the use of the church before he came west to purchase that land? Tell me the name of some one who did give him money. A-Yes sir.

262 Q-You know the name of some one who did give him money? A-Yes sir.

263 Q-Well, will you be good enough to do so? A-Well there was my

father for one. He was one man.
264 Q-What was your father? A-Joseph Smith.
265 Q-And your father Joseph Smith gave him money? A-Yes sir.
266 Q-How much did he give him? A-Ten dollars.
267 Q-Who else gave him any money? A-N.K.Whitney.
268 Q-How much did Whitney give him? A-I could not say how much it was.
269 Q-Was it as much as ten dollars? A-Yes sir, I presume likly it was more than that.
270 Q-Was it as much as twenty five dollars? A-Yes sir.
271. Q-You say Whitney gave him as much as twenty five dollars? A-Yes sir,and there is not a particle of doubt but that it was more than that.
272 Q-How do you know he gave him money? A-I know from the general report in relation to the facts concerning the amount of money that was raised by these men who were engaged in the work of raising the money.
273 Q-Did you see your father give him the money? A-Yes sir.
274 Q-Did he tell him what to do with it? A-To put it into the hands of Bishop Partridge.
275 Q-Who did your father give the money to? A-Who did he pay it to?
276 Q-Yes sir? A-He gave the money into the hands of Joseph Smith who was the President of the church. and the money was conveyed into the hands of Partridge.
277 Q-How do you know it? A-How do I know what?
278 Q-How do you know that the money found its way into the hands of Partridge? A-I know it from the fact that the general report in relation to the amount of money that it was supposed that Partridge took away with him.
279 Q-Did you see Joseph Smith take away with him that amount of money with him to give to Partridge? A-Well now there is no use asking me these questions for I know my father gave that amount of money to be given to Partridge,-and I know of it because of the talk it caused in the family on account of my father giving that amount of money.
280 Q-You said that N.K. Whitney also gave money? A-Yes sir, that was my understanding.
281 Q-Did you see Whitney give him any money? A-No sir, I did not see him give any money.
282 Q-Who else did you see given Partridge money? A-I did not see any of them give Partridge money,but it was generally understood that Partridge received a certain amount of money out of these named individuals here.
283 Q-Who was another one? A-There was Sidney Gilbert.(witness produces a slip of paper with certain names written thereon, and states)these were the persons who were mentioned in conference and the church as the men who were to see to the raising of this amount of money,They were the men who were to go off and raise the money,to be given for the purpose of buying a site for the church or a temple here in Jackson Missouri,and Edward Partridge the Bishop of the church was the man who was to do that.
284 Q-As a matter of fact did you see any one give any money for that purpose excepting your father? A-No sir.
285 Q-Then of your own personal knowledge you do not know whether they paid in any money for that purpose or not? A-No sir,I do not know of my own personal knowledge,but I haven't the slightest doubt in the world but that.the money was raised, for.Partridge did go off and buy the land.

266 -Well that is mere supposition on your part? A-No sir it is not for I know that Partridge came west for that purpose. The idea I have on the subject is corresponding to the proper answer to your question. As long as it was fully asertained by the knowledge or satisfaction of the church that the amount necessary to be raised had been raised by the parties whose names had been given as the parties whose duty it was to raise the money, and that was what they were to do.

267 Q-What was it they were to do? A-They were to raise the amount of money necessary to to be raised in ~~xxxxx~~ order to fit Mr. Partridge out with the means to come to Missouri and purchase the ~~xxx~~.

268 Q-Of your own personal knowledge do you know that these persons contibuted any money? A-I have the best knowledge to base my belief on in the world that they did.

269 Q-Of your own knowledge do you know that they did? A-I did not see one of them pay a dollar for that purpose but it was reported to the church by the men who had the matter in ~~their~~ hand that the money had been raised for Mr. Partridge started west and did buy the land so there can't be any doubt but that the money was raised or contributed and paid over for that purpose and finally ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ found its way into the hands of Mr. Partridge who used in the way and for the purpose for which it was given. As I said before I did not see him get a dollar of money, but at the same time I believe he had all the money that was called for.

270 Q-Still you did not see them give him a dollar of the money that was called for? A-No sir, I did not go around and see them pay the money over or go around and inquire of them if they had paid it. I did not notice the people individually who might have handed him over money, but as a general thing it was under stood by the church that he had received the amount of money that it was necessary he should have or that was called for, with the view to locating the church here in Jackson County.

271 Q-Can you state the amount of money that was called for for that purpose? A-Yes sir, I can state about what it was.

272 Q-Well how much was it? A-I think sir it was something like three thousand dollars.

273 Q-Was that the amount called for? A-Yes sir.

~~274~~ 275 Q-And that was the amount that was collected and paid in? A-That is my understanding sir.

276 Q-At what time was that? A-That was in 1832.

277 Q-And I believe you have stated that in 1832 there was not more than three hundred members in the church? A-I said that was located at Kirtland.

278 Q-Did ant one except the members ~~xxxxxxxxxxxxxxxxxxx~~ church at Kirtland contribute? A-What is the question of the

279 Q-I asked you if any one other than the members of the church at Kirtland contributed? A-Not that I know of.

280 Q-And you think the money was contributed by these men whose names you have read here? ~~were pretty well off~~ A-Yes sir.

281 Q-Were they rich men? A-They were men who were pretty well off generally.

282 Q-Which amongst them was in the best circumstances fiancially? A-Mr. Marks was a man who generally handled a good deal of money. He was quite wealthy, and I understood that from the amount of money he contributed for the benefit of the church for the purchase of the land here, that he afterwards got the deed to the temple in Kirtland, that was placed in his hands to secure him in addition,-or in relation to the money which he, Mr. Marks, placed in

the hands of Bishop Partridge to purchase lands in this country.

283 Q-Was Mr. Marks a member of the church? A-Yes sir he was a member of the church. He would not have been in this if he had not been.

284 Q-Was he also an officer of the church? A-Yes sir he was.

285 Q-Well now you say that for the money that Mr. Marks advanced he got the temple at Kirtland in his own name? A-Yes sir.

286 Q-How long did he have it in his own name? A-I can't say sir,-he had it for a season in his own name.

287 Q-What was that for? A-For the money he had advanced.

288 Q-Then he had that on account of a debt which the church owed him? A-Yes sir.

289 Q-Well now I would like you to state specifically what that money was advanced for? A-It was for a part of the money that was sent out into Missouri for the purpose of purchasing this land for the temple, and for the purchase of the printing press for the printing office and material of that kind, for the printing esrablishment.

290 Q-Well now am I to understand that you do not know all this of your own personal knowledge,-it is all hearsay? A-I have heard them talk about it so much that I have concluded it was about as substantial a fact as anything could be. Why my dear sir there can be no doubt about it. Of course I did not see all of the money paid over, but then you know there is many a thing we know that we do not see, and yet we know it as well as any fact we have seen. Why if the Council of this city should, or if the people of the city of Independence should contribute five thousand dollars or fifty thousand dollars to send over to feed the Russian poor, and you had never seen one cent of the money that was contributed or one barrel of flour that was bought or contributed or bought with that money, would it follow that you would concluded that Jackson County had not contributed that amount. No sir, on the contrary you would conclude from the general report, and believe it too, that something had been done. Now so it was in this case,-it was the general report that this money was raised for Partridge to come west with and purchase that land, and I know that my father gave the amount of money that I have stated,-I know that Partridge did go west, and I know that Marks had the deed for the temple there at Kirtland to secure him for the money that he had advanced for that purpose.

291 Q-No sir, I would not necessarily believe the report in the news-papers, for I know very often there are things in news papers that are far from true? A-Yes sir I know that too, but in the case I have used as an illustration where the money was subscribed to purchase the flour for the starving poor of Russia, if you saw those accounts in the news-papers, and saw the mayors report or whoever had charge of the charitable work and they corresponded, although you might not have seen a dollar of that money, or a barrel of that flour subscribed yet you would be bound to admit that the mayors report was authoritive.

292 Q-No sir not necessarily would I be bound to that either, for things look a great deal larger in news-papers than they are really are? A-In a case like this when a church or any organization undertakes a matter of this kind it is something that from its very nature cannot be limited in its scope and operation to one individual, and if one single individual is to know all about it of his own knowledge,-then I will venture to say that there never was a trans-

action of that kind that was confined conclusively to the knowledge of one man, or of which any one man had the sole knowledge, or knew personally from his own personal observation all the facts in connection with it.

293 Q-Well now you have stated all you know about that? A-Yes sir. I don't think of anything else to say further than that I did not go around individually in this particular case and see every fifty cent piece paid out, but I do know that the general understanding was that the amount of money had been contributed.

294 Q-How much was it the general understanding had been contributed? A-Well I couldn't say to a dollar how much it was, but at all events it was enough for Partridge to go west and purchase this land.

295 Q-Did you not state a while ago how much it was? A-I said if my memory served me right it was three thousand dollars,-and I say now if my memory serves me right it was three thousand dollars.

286 Q-Did Partridge ever make any report back to the church at Kirtland as to his proceedings? A-I don't know that he did.

287 Q-Do you know that he did not? A-No sir, I don't know anything about that. I presume he did but if he did I have forgotten it as a matter of ~~history~~ memory.

298 Q-Did he ever make any report to any body of the church as to his mission? A-I don't know that he did. I don't know that he lived here long enough to make a report. By the time they got through destroying the printing press and the printing establishment and driving Partridge out of the country,-That is about all that I recollect of history saying about the matter, and I don't just know what Partridges movements were after that, any more than what was published in the general current papers at the time.

299 Q-Did you ever see any report published in any of the newspapers as to how he disposed of his trust? A-No sir, I do not know that I ever did, and as far as I am concerned it would not be necessary for Edward Partridge to make a report for I believed him to be an honorable man, and a man that would not abuse his trust.

300 Q-So you do not know what he did with that money do you of your own knowledge? A-Well I know something from the general report as I said of history, and I judged that in relation to that, that he paid out that money for the land here in Jackson County.

301 Q-You think he did? A-Yes sir, I am pretty sure he did.

302 Q-You do not know absolutely of your own knowledge that he did though? A-I do not, but I have every reason to believe that he did. Of course I was not here and did not see him pay it out, but he was an honorable man, and I think he did what he was authorized and instructed to do.

303 Q-And he was sent out to purchase this land? A-Yes sir.

304 Q-Well you state whether or not in the church as at first organized from 1830 to 1835 there was any district Presidency? A-At that early time in the history of the church I do not think there was any appointments made, especially in regard to the districting of the country. I do not think that there was any arrangements made in regard to that, for the church was comparitively small and weak to what it was afterwards and it was not necessary to do so,-In other words the proper stage in the groth of the church had not arrived which rendered it necessary to district the country, or divide the church off into districts.

305 Q-Can you state when that first came in? S-The proposition for districting the United States came in, and was brought up ~~here~~ before the conference at Nauvoo in 1841 or'42.

306 Q-What was that proposition you refer to? A-The propositions to ~~to~~ district the United States,-that is placing it under the directions of presiding officers. That arrangement had not as yet been completed.,or perfected at the time of the death of Joseph Smith.

307 Q-It had not been finally consummated or perfected at the time of the death of Joseph Smith? A-No sir.

308 Q-Well when was it completed Mr. Smith? A-It was not completed at all.

309 Q-It was not completed at all you say,-not before the death of Joseph Smith? A-No sir,Joseph Smith died before that districting took place.

310 Q-Well now I think you did not understand me? A-Well ask your question again and I will see if I understand it?

~~311 Q-When was that districting completed after the death of Joseph Smith? A-No sir, Joseph Smith died before that districting took place.~~

311 Q-When was that districting completed after the death of Joseph Smith? A-I don't know that it has ever been districted since the death of Joseph.

312 Q-Do you know that it has not been districted since his death? A-No sir, I say that I do not know that it has been districted since the death of Joseph,unless it has been districted under the reorganization or under the organization of the reorganized church.

313 Q-Has it been in fact re-districted ~~under the reorganization or~~ or rather districted I should say under the reorganized church,and have districts so constituted Presidents? A-What kind of Presidents?

314 Q-District Presidents? A-Yes sir.

315 Q-Does the reorganized church have district Presidents? A-Yes sir.

316 Q-When did the plan of ~~first~~ appointing seventies first come in force? A-I couldn't say when it first came in. It first came in as mentioned, under the church established in '30 do you mean?

317 Q-Well any where at any time,-when did the plan first come in operation? A-Anywhere?

318 Q-Yes sir that is what I said? A-Well I think as far as my memory is concerned in regard to the districting of the United States into districts,it did not come in until some time in the forties. That is my memory now. It was some time in 1840 or '41 or some where along there that the plan first came in so far as my memory goes, It might have been along about '42 for all I know.

319 Q-Was it in fact perfected before the death of Joseph Smith? A-No sir it was not.

320 Q-Was it perfected,-

By Mr. Kelley,-

321 Q-Let him answer your question before you ask him another. He had not finished his answer?

By Mr.Southern,-

322 Q-I thought you had answered the question. I will ask you again when the plan of appointing the seventies came in first?
A- Well that came in in 1835. The subject was suggested at the time of the organization of the twelve.

323 Q-Well when was the plan of the organization of the seventies perfected? A-It never was perfected in the days of my brother Joseph at all.

324 Q-When was it perfected, if at all, after his death? A-Well I think it was perfected in the re-organized church if I am not entirely mistaken concerning its history.

325 Q-Mr. Smith did you remain at Nauvoo with the twelve any length of time ater the death of your brother? A- I remained there at

Nauvoo until I845.

326 Q-How long did you remain in Nauvoo in I845? A-I remained there four months in I845.

327 Q-Did you prior to the death of your brother or after the death of your brother at any time either before or after his death, teach the doctrine of polygamy? A-I did not.

328 Q-You did not either before or after the death of your brother teach the doctrine of polygamy? A-No sir.

329 Q-Did you at any time whatever or at any place preach the doctrine of polygamy? A-No sir, I did not.

330 Q-You never taught the doctrine of polygamy? A-No sir, I never did.

331 Q-Then any history which states that you taught the doctrine of polygamy is false? A-Yes sir.

332 Q-Well where did you go first after you left Nauvoo? A-My first advent in relation to the ministry was at Rocky Ford of the Inlet. That was in Lee County Illinois.

It being impossible to complete the taking of these depositions on this day the further taking of the same was continued until to-morrow morning, the same being the morning of Saturday the 30th day of January I892 at the hour of half past nine o'clock, then and there at that time to be continued at the place in that behalf aforesaid.

Now on this the 30th day of January the same being Saturday at the hour of 9:30 o'clock in the forenoon that being the time to which the taking of the depositions was continued as aforesaid, come the parties as of yesterday, and the further taking of the depositions herein was continued, pursuant to adjournment.

William B. Smith resuming the witness stand testified as follows response to questions asked him by John N. Southern, counsel for the defendants,-

333 Q-Well now Mr. Smith will you state how long you remained at Nauvoo, Illinois, after death of Joseph Smith? A-From about the 25th of May until the last of October I845. I think that would cover about four months in '45 that I was there in I845 That is what I said yesterday that I was there about four months in I845.

334 Q-Was not Joseph killed in I844? A-Yes sir, I was not living at Nauvoo at the time of his death though.

335 Q-You were not? A-No sir.

336 Q-Where were you living at that time? A-I was living in the city of New York.

337 Q-After that you returned to Nauvoo? A-Yes sir.

338 Q-Well what time did you return to Nauvoo after the death of your brother? A-I returned in the month of May I845.

339 Q-And then how long did you remain? A-I remained until the latter part of October.

340 Q-Of that same year? A-Yes sir.

341 Q-Then where did you go? A-After that?

342 Q-Yes sir? A-At that time,-There is a question on that point that was answered yesterday. My mind was wrought up on the circumstances connected with the closing of my work of preaching, and I answered it on that point that I commenced the work of preaching and organizing a body of the people by myself. That is what I answered, but there is another point other than that, and whether it can be a matter of that would be of interest here I do not know.

I could not see that it would be of any interest for your Honor to see but it is connected with my escape from Brigham Young and his party, and the ~~he~~ efforts that were made to preserve my life, but I did escape to a place where I immediately made publication of the circum -

satnces connected with my withdrawal,and that was the first step I took after I withdrew from the church as it was organized and proceeding at Nauvoo,and the question upon my mind when the question was asked was in respect as to where I first after leaving Nauvoo commenced the work of a ministry in organizing a branch of the church,but having been notified (if I am permitted to make the statement)that my life was in danger if I remained in Nauvoo after that because of the doctrine of blood atonement,I then fled to a place called Volney on Skunk River,where I had a cousin, a man whose name I am not familiar with now, except I could recall it upon reflection. He was a man who owned mills there on Skunk river and my cousin lived there with him,and I went there and left my horse with my cousin,and then I went to Galena where I published an account of my seperation from the church and the causes that led up to it,- I think it occupied sixteen pages,and gave the cause of my seperation from the church,and continued a statement of the apostacy of the leaders in the church at Nauvoo, I had four or five hundred of these phamphlets struck off, which cost me some where in the neighborhood of forty dollars,and I sent these phamphlets to all these news-paper editors that I could think of. The original copy of that phamphlet or statement can be found now in the files of the St Louis Republican,and also on the files of the Warsaw Signal, but I myself have no phamphlets left of that publication.

343 Q-That is as much as you want to state on that point now is it? A-With the exception that I followed several months lecturing and giving expositions of the different principles of our of our faith at different places,and in the city of Cincinnati and also in St Louis and the City of Philadelphia and New York and Boston,and other places where I had ministered before the death of my brother. I followed that for several months in these places where I had been sucessful in making converts to the faith,-all these places I visited after the death of my brother and gave lectures publicly in relation to the explanation I was making in reference to the cause of the seperation between me and that party under the leadership of Brigham Young. It was after this that I immediately organized a branch of the church. That is the part that I desire to explain,for at first I did not notice the scope of your question,and this is the explaination I desire to make, and at the time I thought about the propriety of asking permission to make an explanation.

344 Q-Is what you have said satisfactory on that point? A-It is so indeed. It is to me and I hope it is equally so to you.

345 Q-Very well, I am glad it is. Now I will ask you what position you held in the church which you organized? A-Well the church upon its organization at its conference, appointed me by a vote of its conference, appointed me as the President of its organization.

~~of its conference appointed me as the President of its~~

346 Q-You were its President? A-Yes sir, I was President of the organization.

347 Q-Now what church do you speak of? A-The Church of Christ as organized in 1830.

348. Q-The appointment to which you refer is an appointment then that was prior to 1844? A-No sir I did not mean that. I do not hear very well.

349 Q-Now you said the church appointed you to do certain work? A-Yes sir.

350 Q-Appointed you to a certain office? A-Yes sir.

351 Q-And when I asked you what church it was that made that

ment, you answer that it was the church of Christ.

352 Q-That is the fact? A-Yes sir, but there evidently is a misaprehension betweeh us, for I am speaking of the organization that I effected after the death of my brother, and from your question I would infer that you refer to the time before the death of my brother. That is what I refer to,-the church or body that I organized and which elected me as its President.

353 Q-That is the church you referred to when you said you were appointed president by a vote of its Conference? A-Yes sir,the church that I organized after I left the part at Nauvoo.

354 Q-Now then what was that church named? A-The Church of Christ.

355 Q-Who gave it that name? A-That was the first name the church received in 1830,and I suppose it was sanctioned by my brother.who was the President of the church.

356 Q-Then it is a fact I believe that you continued the name of the church that was in existance at the time of the death of your brother? Do you understand this question? A-Yes sir.

357 Q-That is the fact is it not? A-Yes sir. Now the name of the "Church of Christ" was occasionaly used,also the "Church of Jesus Christ",and again"The Church of Jesus Christ of Latter Day Saints,but as a general thing I adopted the name of"the Church of Christ",in so far as my connection was concerned

358 Q-What was the name of the church to which your brother belonged at the time he was killed? A-Then it was called the Church of Jesus Christ of Latter Day Saints".

359 Q-What was the name adopted by the church which you organized when you left that body? A-Why invariably it was called the Church of Christ.

360 Q-How many persons belonged to that church at the time you were made its President? A-Weel I calculate that our statistics in that conference minutes would mount up frequently to forty or fifty,and sometimes sixty. That is there would be that many members represented in the conference meetings that I ahd charge of.

362 Q-Would all the members of your church be present at these meetings of the conference? A-No sir.

363 Q-Now Mr. Smith I believe you have stated that the title or the name of the church at the time of its organization in 1830 was "The Church of Christ"? A-Yes sir.

364 Q-That was the first name designating the title of the church that was adopted? A-Yes sir.

365 Q-Then about 1835 there was a change made in the title or designation of the church? A-Yes sir,There was a slight change about that time made in the name of the church.

366 Q-What was that change? A-It was called the "Church of Jesus Christ of Latter Day Saints".

367 Q-Was that the name of the church at that time? A-Yes sir,-after that change was made.

368 Q-Now refresh your memory and answer me,if it is not a fact that the title or name of "The Church of Jesus Christ of Latter Day Saints",,-or that the term "Latter Day Saints",was added on to that title later than 1835? A-No sir. Now I think that by offering an explanation here,you would probably understand me so I could answer your question.My explanation is this,-that we as a class of people believed that we were living in what was called the last days,and the term "Latter Day Saints"

seemed to be sort of a tribute to that in relation to the confession of our faith in the doctrine as we held it at that time,and as a natural consequence that addition to the name of the church did not come any later

than that time.So far as that matter was concerned though,it was a matter of degbe and simply a recognition of one of the articles of our faith or principles,believing as we did that we were living in the last days,and it was first suggested by that fact,and the idea that persoms who obeyed the gospel became saints,and consequently they would be saints of these latter days,not being saints of former days. The term "Latter Day Saints",was always associated or connected with the ~~faith~~ confession of faith. I know that was my experience,and that is the way that the term"Latter Day Saints" came to be added to the title of the church.

369 Q-Mr. Smith here-to-fore I have not objected to these long answers- A-No sir,I know you have not.

370 Well I would very much rather you would make them a little shorter if you can,in obedience to what you esteem the truth.I wish you would do that if you conscientiously can do so,but I dont want any man,-you or any one else,-to fall short in your sentiments or what you esteem or deem to be the truth the whole truth,and nothing but the liberal truth. Feeling thus I am not objecting to the long answers,nor do I desire that you should curtail them in any respect if you feel that your obedience to what you deem to be your duty forbids you to do so? A-Thank you for the explanation.

371 Q-Now Mr. Smith was there in and about 1835 or 1838 any revelation given on the name of the church? A-What was that?

372 Q-Was there in and about 1835 or '38 any revelation given in reference to the name of the church? A-I think there was a revelation on that matter given about 1834,but I would not be postive for I haven't been very conversant with the question of revelations lately,but it strikes me sir that there was a revelation given about 1834 fixing the term of the title of the church.

373 Q-When did you say that was? A-I say I wouldn't be postive but it strikes me that it was in '34.

374 Q-well what title was that? A-The Church of Jesus Christ of Latter day Saints.

375 Q-I will ask you further if there was not a revelation given about that time on tithing? A-A revelation on what?

376 Q-On tithing? A-Well there was a revelation given on tithing but I could not state when it was given.

377 Q-You mean there was a revelation given in the old church? A-Yes sir.

378 Q-Did you ever go to Far West? A-Yes sir.

379 Q-When? A-I went there.

380 Q-When did you go there? A-I think it must have been some time in 1837.

381 Q-In 1837? A-Yes sir,I think that was the time. If I reccolect right it must have been some where near that time.

382 Q-For what purpose did you go there? A-For the purpose of settling there.

383 Q-You went there with the purpose or with the object of settling there? A-Yes sir,and I purcahsed lands there accordingly .

384 Q-Was there a body of your people there at that time? A-Yes sir.

385 Q-About how many of your people were there at that time? A-I should think there was about twelve hundred families.

386 Q-Where were the from? A-Well they were mostly,-many of them from the eastern and northern states.

387 Q-Were any of them from Nauvoo? A-yes sir.

388 Q-They were from Nauvoo? A-I am not aware that there were any

of them from Nauvoo, for Nauvoo did not have any existence at that time.

389 Q-Did you not say that there were some of them from Nauvoo? A-If I did I did not understand the question. Nauvoo was not in existence at that time.

390 Q-Do you say that there was no such a place as Nauvoo in 1837?

A-Weel so far as there being such a place as Nauvoo under the influence of any Mormon dispensation it did not have any existence.

391 Q-At what time was that? A-That was in 1837 I think. If I am allowed to make one remark further I will say that Nauvoo under the Mormon dispensation did not have any existence as such, until after the church was removed from Far West.

392 Q-Well that is all right. Now I will ask you if you remember whether or not that revelation regarding tithing was made while you were at Far West? A-No sir. I do not remember.

393 Q-Do you not remember whether it was made at that time or not? A-No sir. I do not remember when it was made. I could not say.

394 Q-But you remember that such a revelation was had? A-Yes sir. I know that there was such a revelation.

395 Q-Was that the law of the old church? A-Yes sir.

396 Q-Did the old church practice it? A-They made a commencement at it but they did not practice it very extensively. It was ~~the~~ a law at that time that the practice of which was beginning to be put in operation. It seemed to be a matter that sprung up all at one, and did not be come very generally known.

397 Q-Did you adopt it in your church? A-No sir,-do you mean the body that I organized and was the President of?

398 Q-Yes sir? A-No sir I did not adopt it for I had not organized myself in any position of that kind to make any demand in relation to tithing.

399 Q-Well is that a law which is recognized practically in the Re-organized church? A-Yes sir.

400 Q-They carry it out do they? A-Yes sir, they have it in operation in the re-organized church.

401 Q-Was or was not that revelation generally accepted by the old church,-the Church of Jesus Christ of Latter Day Saints,-generally accepted by the church after the date of the revelation, or after the date of its proclamation to the church? A-Yes sir.

402 Q-Were you at Nauvoo in 1841? A-Yes sir.

403 Q-Do you know whether or not in that year your brother Joseph had a revelation in relation to building a temple, and in regard to the church of officers? A-I think he did.

404 Q-Do you know whether he did or did not have such a revelation? A-I think he had a revelation in regard to building of the temple there at Nauvoo.

405 Q-I will ask you to read paragraph forty of Exhibit J,page three hundred and thirteen, in the book entitled" Doctrine and Covenants"? A-"I give unto you my servant Brigham Young, to be a President over the twelve travelling counsel, which twelve hold the keys to open up the authority of my kingdom upon the four corners of the earth, and after that to send my word to every creature;they are,Heber C. Kimball, Parley P. Pratt,Orson Pratt,Orson Hyde,William Smith, John Taylor,John E.Page,Wilfurd Woodruf,Williard Richards,George A.Smith David Patten,I have taken unto myself;behold his priesthood no man taketh from him;but verily I say unto you and others may be appointed unto the same calling".

406 Q-Is that the paragraph? A-Yes sir. I recognize that as the revelation delivered at about that time. I don't know why I should

not recognize it as a revelation given at that time.

407 Q-In what book do you find it? A-In the book of Doctrine and Covenants.

408 Q-That is the book marked Exhibit J, that you hold in your hand? A-I do not know when it was marked, or how it is marked.

409 Q-Well it is exhibit J. By whom was that revelation given? A-By my brother.

4I0 Q-Which brother? A-My brother Joseph Smith.

4II Q-Was it or was it not by the authority in that revelation that you became one of the twelve?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds, that it is incompetent, irrelevant and immeterial,and not cross-examination.

A-Yes sir. I do not understand that from the authority of that revelation I became a member of the quorom of twelve,by means of that revelation.Is that the proper answer to that question?

4I2 Q-I can't say. You are to be the judge of the proper answer. A-I think you are a pretty good judge.

4I3 Q-Well I may be in some cases, but as it happens I do not determine in this instance? A-Well I understand that but if I have not answered the question I would like for you to tell me so.

4I4 Q-Now what effect did that revelation have upon your work in the church?

Counsel for the plaintiff objects to the question asked the witnes for the reason and on the ground that it is incompetent, irrelevant and immeterial, and not proper cross-examination.

A-The effect that it had upon my work was the acknowledgement by that revelation that my administration as a member of that quorom was generally sanctioned by the church by means of that revelation. That was the evidence that my administration had been acceptable to the church.

4I5 Q-For what length of time then, did you consider your appointment as one of the twelve to extend? A-I considered it to extend during my whole life time sir.

4I6 Q-Do you hold the position as one of the twelve in the Re-organized church? A-I do not.

4I7 Q-I believe you stated Mr. Smith that you were acquainted with the doctrine of the church prior to I844 or I845,-the doctrines of the church of Jesus Christ of Latter Day Saints,prior to I844 and I845? A-Yes sir.

4I8 Q-And they held to and practiced the doctrines of baptism for the dead? A-They did at one time.

4I9 Q-At one time they did you say? A-Yes sir.

420 Q-I would like you to explain more specifically what you mean by that? A-I mean it did not continue a very long while, but there was a time when it,-when there was a doctrine of that kind taught and practiced.

42I. Q-You say they did at one time,-now what time was that? A-Well I will have to refresh my memory a little for I cannot remember it right now.

422 Q-Well that is all right,-take a little time. Now to refresh your memory Mr. Smith was that not in a revelation given in I844? S-(witness does not answer the question).

423 Q-Can you answer the question as to about what time that doctrine for the baptism for the dead prevailed? A-I think it must have been some where in the neighborhood of '39 or '4I,as near as I can remember. As near as I can possibly recollect and remember now it was about that time.

425 Q-Was it abandoned before the death of Joseph Smith? A-Certainly it was practiced before ~~the~~ his death.
425 Q-I asked you if the practice of administering the right of baptism for the dead was abandoned before the death of Joseph Smith? A-Yes sir that is what I say it was practiced.
426 Q-Was it abandoned? A-Yes sir.
427 Q-Then it was abandoned before the death of your brother Joseph? A-Yes sir.
428 Q-How long before his death was it abandoned? A-I could not say.
429 Q-By what authority was it abandoned? A-I think it was abandoned because of a revelation which was given specifically mentioning it, and it was not to be resumed until after the building of the temple I think. Is there not something in there about that.
430 Q-If it was abandoned for that reason, how long was it abandoned? A-Till that temple could be completed.
431 Q-Where was that temple to be built? A-At Nauvoo.
432 Q-That temple was to be buily at Nauvoo? A-Yes sir.
433 Q-Has the doctrine of baptism for the dead ever been practiced in the Re-organized church to which you belong now? A-No sir, not that I know of sir.
434 Q-Is it taught? A-Not to my knowledge.
435 Q-Did you ever hear of the doctrine of the plurality of the Gods ever taught in the church prior to the death of Joseph Smith? A-I don't think I ever did.
436 Q-Were you there when Joseph was killed? A-No sir, I was not.
437 Q-Where were you? A-I was in New York City.
438 Q-How long had you been gone prior to that time? A-From Nauvoo do you mean?
439 Q-Yes sir? A-I left there in 1841 and did not return until 1845.
440 Q-Now you answer postive that you were not there between 1841 and '45? You are postive about that are you not? A-I was there once on a visit between 1841 and '45.
441 Q-Where? A-At Nauvoo.
442 Q-You were there once? A-Yes sir,-I would not state that I was there once on a visit. I was there a couple of weeks before my brothers death attending a council that was being held in the first part of June.
443 Q-What year was it you were there attending this council that you say was held there? A-It was in the first part of June 1844.
444 Q-What council was that? A-The council of the twelve so called.
445 Q-What was the subject of inquiry?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is incompetent and irrelevant to any of the x issues involved in this case.
446 Q-You may state what that council was called for,-that is what was the subject of the inquiry? A-The subject of inquiry was in relation to property of so arranging and dividing United States into different districts, and for the twelve to receive instructions on that subject from the first President of the church. That was what that council was called for and that was the matter that was considered according to the best of my memory now.
446 Q-Was the subject matter under consideration in that council also inclusive of the question appointing presidents for those districts?
Counsel for the plaintiff objects to the question asked the witness

on the ground and for the reason that it is incompetent and immeterial and is not proper cross-examination.
A-I don't know but I believe that is a proper question to ask in regard to that, and I am perfectly willing to answer it.

447 Q-Well answer it then? A-The question was counseled over in regard to the propriety of appointing certain men, or certain Presidents to the districts respectively.

448 Q-Well did they do it? A-No sir, they did not do it.

449 Q-They did not do it at that time? A-No sir.

450 Q-Well as a matter of fact did they ever do it in the old church? A-No sir.

451 Q-Was there anything in reference to the reception of endowments by the twelve at that time? Was there anything done in reference to that at that time? A-Was there no special instruct ions given at that time to the council of the twelve about the endowment,-about the endowment, that was to be had at the completion of the temple. That was a matter that had become of common conversation in the public discourses. So far as the question of endowment was concerned it was talked of at that time by the public ministry of the church, urging the necessity of finishing the temple and completing it for the express purpose of receiving that endowment.

452 Q-Was there anything done at that time with reference to the confering the apostleship upon any of the twelve?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent, irrelevant and immeterial, is not proper cross-examination, and does not call for the best evidence of the facts sought to be proven.
A-Is the question objected to?

453 Q-Yes sir, but you are to answer it? A-There was nothing done at that time that I speak being there on the first of June in regard in regard to any endowment being had with reference to the twelve,-any person of the twelve.

454 Q-Was there anything done with reference to the apostleship?
Counsel for the plaintiff objects to the question asked the witness for the same reason and on the same grounds as are raised against the last question asked to which objection is made.
A-Nothing. Nothing that I remember of, more than simply acknowledging the apostles as being official officers of the church

455 Q-Who were the apostles at that time? A-Who were what? 1844

456 Q-Who were the apostles at that time? Who were the twelve? A-Yes sir.

457 Q-Were they all of them appointed? A-Yes sir.

458 Q-Was any one at that time,-any one of those twelve apostles at that time ever endowed as an apostle, or given any special keys of apostleship? A-Not to my knowledge. There was a large vacancy at that time.

459 Q-Well I so understand it,-Now Mr. Smith will you state whether you received ordaination there at that time of that visit to Nauvoo in the month of June 1844? A-No sir.

460 Q-You did not? A-No sir.

461 Q-Did you ever receive ordination as a sucessor of your brother? A-No sir, I did not.

462 Q-Have you ever claimed that you did? A-No sir. I don't recollect that I have made such a claim directly.

463 Q-Have you ever made such a claim indirectly? A-To answer that question will require an explaination.

464 Q-Well I have no objection to your making an explanation in reference to that? A-I held the view that in case a legal sucessor who I seen as such never came forward himself to occupy that place

that I held a sufficient claim under the apostleship to be properly the legal sucessor to my brother Joseph,in case that that position we never held at that time,- by persons who at that time were legaly entitled to that position.

465 Q-Had you ever be clothed legaly, with the funtions of that position?

Counsel for plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immeterial, and now proper cross-examination,and calls for an opinion of the witness on a matter of law,which is a question the witness is not competent to answer,

446 Q-You may answer the question? A-No sir.

467 Q-Had your brother ever undertaken to confer upon you that authority?

Counsel for plaintiff objects to the question on the ground and for the reasons as set forth in the objection to the last question on to which objection was taken. A-Never any further than the ordination conferring upon me the office of an apostle.

468 Q-He never did? A-Never any further than the ordination and confirmation as an apostle.

469 Q-Did you by reason o f that, or any other reason have any ~~priest~~ priority over the other apostles?The other twelve?

Counsel for the plaintiff objects to the question for the reason on the grounds set forth in the last objection to the question objected to. A-No sir. I had not.

470 Q-You did not have any right of priority over the other twelve? A-No sir I did not. Now on the term "priority"if I am allowed to do so I would like to make a remark, but perhaps it is properly in place here.-

471 A-Well I will bring it out by questions.

By Mr. Kelley,-"If he wants to explain what he says let him do so".

By Mr.Southern,-"Very well,- I have no objection".

By Mr. Kelley,-

472 Q-You can go on Mr. Smith and make the remark you intended to make A-Well what I wanted to say is that so far as the term"priority"is concerned. A vote was taken in the council of twelve, that the oldest man in that quorom should have the right of presiding over the quorom,and act as the chairman in all business transaction. That was a priveledge that was accorded to the oldest man amongst us out of respect to his age. Now that is all there is to priority for there was no priority in the quorom that I know any thing of except that.

By Mr. Southern,-

473 Q-Was there any ordination made to that position? A-Not that I know of. It was not necessary.

474 Q-Did you ever make any publication in any paper representing or purporting to represent the church,in which you put forth the claim,-your claim was the sucessor to your brother? A-I think so.

475 Q-Well was there? A-Yes sir I think so, but it all right when properly explained in connection with the surrounding circumstances.

476 Q-Do you recognize this paper or phamphlet that I am now offering you as a publication with which you were ever acquainted? A-I recognize it as an action on my part of consenting to the statements therein made sir.

477 Q-Was it published and circulated? A-Yes sir.

478 Q-Amongst whom? xx
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that the same is incompetent and immeterial,and is improper cross-examination.
479 Q-Amongst whom was it circulated? A-Sir.
480 Q-Amongst whom was it circulated? A-Amongst the class of people that I had organized intp the capacity of a church.
481 Q-Have you your glasses with you? A-Yes sir.No sir I guess I must have left them where I stopped for dinner as I don't seem to have them with me.
482 Q-If you haven't your glasses with you, will you, or can you read it without glasses? A-Partly so. I don't know but what I can read that without glasses,-at any rate I am willing to try sir.
483 Q-Read what I have marked there sir,-read the topics and the matter down to there?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that the same is incompetent irrelevant and immeterial, and is not cross-examination.
484 Q-Read the topics,-the heading? A-"President William Smith was ordained by his brother Joseph Smith, previous to President William Smiths leaving Nauvoo, on his mission to the east for the last time during the earthly existence of his brothers President Joseph Smith ordained him a prophet, seer,revelator, and translator,and then informed that he had all the necessary ordinations to lead the church, (in his time) then leaped, smote his feet together, and observed that it was done;in a few days brother William started on his mission and saw his brothers no more. He returned to Nauvoo in about a year after they were murdered".
485 Q-Are you the author of what you have just read? A-Yes sir, but did not receive the ordination mentioned at the time I spoke of being present in June.
By Mr. Kelley,-"I move on the part of the plaintiff to exclude from the record, the answer of the witness and statement he has just read response to the question of the counsel for the defendent,on the ground that the same is irrelevant and incompetent,and Is not proper cross-examination,and simply is an individual opinion of the witness".
By Mr. Southern,-
486 Q-Have you exercised the authority conferred upon you as you have stated in the re-organized church?
Counsel for plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immeteri al, and calls for an opinion of the witness,and is not proper cross examination.
A-No sir, I have not.
487 Q-You have not exercised that authority? A-No sir.
488 Q-Did you at any time organize a quorom of twelve of your own?
Counsel for the plaintiff objects to the question asked the witness xxx on the ground and for the reasons as stated in the last proceeding objection.
A-I never accomplished it but I under took it.
Counsel for the plaintiff moves the court to strike out the answer for the witness on the ground that it is an answer to an incompetent and immeterial question, and is improper cross-examination.
489 Q-In that quorom of twelve as you purpose to raised it, or to constitute it, was the name of Jason W.Briggs mentioned?
A-Yes sir,
Counsel for the plaintiff objects to the question and moves

court to strike out the answer of the witness for the reason that it is incompetent and immeterial to any of the issues in this case,and is not cross-examination.

490 Q-Where was Jason W.Briggs at that time? A-He was living some place in Illinois. I don't know that I could tell you just where he was living at that time but it was some place in Illinois. I believe he was living near the place called Waukesha,Illinois. My memory is not very distinct as to his place of residence at that time.

491 Q-Was Jason W.Briggs a member at that time of the church that you had constituted?

Counsel for plaintiff objects to the question asked the witness on the ground and for the reason that the same is irrelevant and immeterial and is not ~~the~~ proper cross examination.

A-Yes sir he acknowledged the organization that I had effected I did it with his consent.

492 Q-Then what subsequently became of him with reference to the church? A-Well he became a member of an organization effected at first,-well it was at first in the getting up of what was called the Re-organized church,and he was working in that object in connection with a man by the name of Gurley and others that started in and worked a reformation in the reorganization of the church.

493 Q-Were they endeavoring to reform your organization? A-Yes sir, they got dissatisfied with my organization for the reason that they considered there was a legal sucession some where else.

494 Q-They thought that the legal sucession was not in you then? A-Yes sir,they thought that I did not exactly hit it.

495 Q-And so the fact is they went back on your sucession? A-Yes sir.

496 Q-And assumed another sucession? A-Yes sir.

497 Q-In what way did Briggs seperate himself from your church, or become seperated from your church? A-He claimed that the legal sucession did not exactly come in me, from the fact that I had presented the subject in regard to what was called my claim under that ordination.

There was another right that was shown to be more authoritive in regard to the sucession that the right which was supposed to be conferred on me, and that was the right of heirship,- the right of inheritance, for in the socession of the priesthood there was a law that the priesthood was confirmed to be handed down from father to son,and I did not stand exactly in that position.

498 Q-In consequence of that claim of his did you take any action into your church? A-

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it incompetent, irrelevant and immeterial, and not cross examination.

A-Yes sir.

499 Q-What action did you take? A-I took ~~answer~~ action to withdraw the hand of fellowship.

500 Q-You cut him off? A-Yes sir.

501 Q-You did that because he denied your authority? A-Yes sir.

By Mr. Kelley,-"Of course I desire to have it understood that all this is going in subject to our objection,for there don't seem to be any opportunity given me to make my formal objections I want it understood that all these questions are objected to because they are incompetent and immeterial, and not relevant to any issue in this case and because the questions asked are not cross examination.

By Mr. Southern,-

502 Q-Was there any other reasons as to why you did that? A-I could

not say as to whether there was or not.

503 Q-Why cannot you say as to that? A-Why just because there are a great many things ~~x~~ that are picked up with a view ~~x~~ of justifying a persons actions,-that is have a slanderous meaning and improper application,and I do not like to say as to all my reasons for they have nothing to do with this case that I can see.

504 Q-Very well we will let it go at that. Now was William Blair one of your apostles? ~~x~~

Counsel for the plaintiff objects to the question on the grounds that it is irrelevant and incompetent, as well as immeterial and not cross examination.

A-Yes sir he was.

505 Q-Is he the same William Blair who is now an official in the Reorganized church? A-Yes sir. He is.

506 Q-Did Blair have anything to do with your excluding Briggs from the church? A-From what church.

507 Q-From your church,- The church that you had organized.

Plaintiff objects to the question on the ground and for the same reason as are raised against the last question to which objection has been had.

A-Well I couldn't say that he had or had not. I couldn't say as to that sir.

508 Q-Did he endorse exclusion?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons as stated in the last objection herein before set forth at length.

A-I could not say that he endorsed it.

509 Q-Do you recognize the phamphlet I now hand you? A-This was written in defence probably of the frail charges that were preferred against me,and gotten up by way of conspiracy in regard to the organization,and if I am here to be examined as in a criminal court I shall refuse to give any further answers on that subject.

510 Q-Well you could not please me better than to do so, but I would not consider it as the best thing for you to do? A-I ~~xxx~~ consider that to be a vile and malicious slander against my reputation which I endeavor to defend in that phamphlet.

511 Q-Are you the author of this work that I have in my hand,-this phamphlet? A-Yes sir,by my dictation that is so,It was written in defense of my character from a vile and malicious slander and conspiracy against th ~~Re~~-organization of which I was the head,and to the injury of my personal character, and it is not a matter that properly belongs here at least not ~~at least~~ in this investagation.

512 Q-Well now here is just four lines I want you to read from this phamphlet? Will you read them?

Counsel for the plaintiff objects to the question asked the witness on the ground that the same is ~~xxxxxxxxx~~ incompetent, irrelevant and immeterial,to any of the issues in this case, and not cross-examination.

513 Q-Will you read it? A-Yes sir, -"Official notice is hereby given that Jason W.Briggs, Alva Smith,Sr. and Albert White are cut off from the church of Jesus Christ of Latter Day Saints for conduct to bad to ~~right~~ unfit or to put in print".

514 Q-Are you the author of that? A-Yes sir.

Counsel for plaintiff moves the court to exclude from the record the answer of the witness for the reason that it is irrelevant and ~~x~~ immeterial and improper cross examination.

A-There was a clique or conspiracy set ~~up~~ ~~xxxk~~ foot with a ~~xi~~ view to try and injure,or ruin my character if possible. It was a deep laid

conspiracy that was laid by the individuals concerned in it that afterwards have fallen away from the church and I consider it a mean piece of business sir for these parties to bring it into this court for examination and it has nothing whatever to do with this case.

515 Q-Well the statements that were made in that phamphlet were true?
A-Yes sir I do so consider them. They were made in refutation of a vile malicitious slander, and falsehoods that was brought up and operated under the influence of a deep laid conspiracy against me.

516 Now after having examined this phamphlet and refreshed your memory are you able and willing to say whether William Blair joined with you in the excommunication of Jason W.Briggs?
Counsel for the plaintiff objects to the question on the grounds that it is incompetent, irrelevant and immeterial and not cross examination.
A-I could not say.

517 Q-You cannot say as to that? A-No sir.

518 Q-Look at the section and I now show you on page seventeen of the phamphlet and read it if you please? Refresh your memory from it? A-How much of it do you want me to read?

519 Q-Read it down to the signatures,for it has some signatures to it?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent, irrelevant and immeterial, and on the further ground that it is not proper cross examination.
A-Official proceedings,and excommunication of Jason W.Briggs. Palestine,State of Zion,January the 6th 1852. Mr. Jason W. Briggs,-Sir,-Your long letter,or communication of five pages and what you call a revelation we, and all the others here who desired, have read and properly considered.we will not pretend to answer in order all that you have written,as we have not time to devote to such purposes,but will answer enough to let you know our position and the position of the saints here and in the surrouding branches of the church;for your apostacy,and the reasons you assign for it are generaly known all around, and your allegations around against the President and spokesman of the church. Your notions on that we did not know what we were doing when we cut you off from the church and that certain steps should have been taken etc, shows that you are laboring under ignorance,are perhaps mental aberation. We understand the law, and know of our selves when and where it is to be applied, without being dictated by one whom we deem an apostate. Apostacy is denying the ruling and legal President and spokesmen of the church(who are William Smith and Joseph Wood),holding all the keys,power and authority that ever God gave to any men on earth; and he that rejects them rejects the father and the Son whom they represent and such men deny the faith, and are therefore not to be heard by us. You say considerable labor William,Brigham,Strang, etc.,and your apparent ignorance on these matters shows us that there are some of us who know as much,or more about them than you do;so your labor is vain in this respect. You deny slandering the Phophet and spokesmen;do you think we are so void of understanding as to believe that? Your letter contains little else,but you say you believe you can prove;suppose you do believe that does that make what you do believe true,and should you prove what you say you can,that neither would make it true. Your beliefs are but illy founded and your proofs coma from a bad scource;we deem it unsafe to trust to the testimony of apostates.-You are awre that even Christ was defamed by such testimony.Joseph

Smith was proven the worst of men,and Mormonism was proven a delusion and a humbug. We have the testimony of God;this testimony, and this alone, can satisfy us. We cannot and will not receive testimony of mankind in contradistinction to it;let the testimony of God prevail. As to your revelation we consider it false as it proves itself to be.As to what others may think of your production it is nothing to us our motto is to take care of ourselves,and now allow ourselves to be led away by designing men.. How came you by the keys of revelation to write for the church? The matters contained in your revelation are absurd and more,they are false.We do not say how,or from whence it came, but this much we are satisfied of,-that it never came from the God of Heaven. You certainly are not the order of God's communication.We believe God holds in his hands the right and prerogative of punishing and governing his prophets without any human assistance;and as to fallen prophets it is all nonesense,-it is unreasonable to suppose such a case;~~much~~ and as to God's giving testimony of the truth of your revelation, we do not believe it. Your prophecy that the testimony should not follow William and Woods administration as has already proven itself false;so you see you are laboring under a mistake or error,whether intentionally or not,you best know.As to Baalam and sergalios it shows that you have got the cart before the horse, and ~~know~~ know but little either of Baalam or his doctrine. William Smith is the heir to.the Presidency of the church and your talk on that subject is useless and we fear that ere long you will learn that you are being instrumental in your own degradation.all your reasoning with respect to the church is vain, and without a shadow of proof to your assertions.all that the saints at Waukesha have told,we care nothing for;it is evident they manifest a bad spirit. We understand and so do the brethern here, the views of the President and spokesmen relative to marriage;so no ~~xxxx~~ foreign communication,contrary though it be, can disturb us on that score. Had you gone about the work that was given you to do and had not spent you time gossiping with apostates, and had not apostised,to be plain upon the subject, we might ~~have~~ not have been called to a task that is of such an unpleasant nature as you must know this is.

We hold no personal enmity youward,but would be happy to learn that you had repented of all your errors, and turned to God(if indeed there is yet repentance for you).you are also notified that you are ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ excommunicated from the priest lodge as a dishonorable man."

A-(continued).Not having called the subject to mind I could not say whether William Blair took a part in that proceeding but upon reading that over I see that he did have some connection with the action of excommunicating these men.

Counsel for the ~~court moves the plaintiff~~ plaintiff moves the ~~xxx~~ court to exclude from the record the answer of the witness on the ground and for the reason that it is not cross examination and is entirely immeterial and irrelevant to any of the issues in this case.

520 Q-What office does W.W. Blair now hold with references to the Re-organized church? A-Why is he now holding the office of one of the high counselors,-as one of the counselors in the first Presidency.

521 Q-What was he at the beginning of the organization of the Re-organized church? A-What was he?

522 Q-Yes sir? A-I could not say sir as to what he was. I could not tell you sir for the reason that I have lost the history,and

my memory is not right on the history of W.W. Blair,for a season prior to his coming into the re-organized church. All I know of his history is that he went into merchandising.

523 Q-Was he Presedent of the Re-organized church after he became connected with it? A-

Counsel for the plaintif objects to the question asked the witness for the reasons and on the grounds that it is incompetent,and irrelevant and immeterial to any of the issues in this case, and on the further grounds that it is not cross examination

A-So far as I know he has been accepted as first Counselor to the President,or as Counselor to the first Presidency,but so far as I am personally concerned I could not say when he first became a member of the Re-organized church.

524 Q-Was he ever President of the Re-organized church? A-He is not so acknowledged in connection with the first Presidency of the Re-organized church, That is the position he now holds in connection with the Re-organized church.

525 Q-State at what time, if you can recollect it, did your church become dis-organized? A-Well it was some time I think. I don't remember the dates but maybe they are noted in there.

526 Q-Well do you know what time that was? I don't know myself so I ask you if you know? A-It became disorganized a short time previous to the organization of the Re-organized church that took place at Amboy.

527 Q-It was you say just prior to the Amboy conference or the reorganization of the church at that time that your branch ~~of~~ or organization of the church became disorganized? A-Yes sir.

528 Q-That was at,-that was in 1860 was it not that that re-organization as you term it took place? A-Yes sir that re-organization took place in 1860 or '61 I think at Amboy.. A short time previous to that reorganization the body of saints that I had organized and kept together occupied their position in that place until it was known that I,~~there~~- that my ~~k~~ nephew Joseph ~~k~~ Smith had come forward and had taken his place at the head of the reorganization, and as it was understood that as he was the legal sucessor of his father to the office that his father held in his lifetime, I never made any attempt after that to to try and re-organize. I did not I may say make any attempt to organi ze my church any further after the operation of that conspiracy against myself and the organization I was with,for the reason that I had taught the doctrine as I conceived it my duty to do. If I am allowed to go on with my story I can tell about that. I had taught the doctrine ~~that k~~ that the legal sucession to the Presidents laid in the family of Joseph Smith in sucession ,and that I held the authority that I was exercising under my ordination as an apostle under the consideration that in case my nephew never came forward to take that place that I considered I would have a right by virtue of the law of inheritance and the right to keep the sucession in ~~the~~ that family to exercise supremacy over the priesthood,and still endeavor to retain the organization of the church as it was established in 1830, and as soon as my nephew came forward and took his place, as I had previously understood the doctrine to be that it was his right to be the sucessor of his father I gave up all my claim to that right that I would other wise,had he not come forward have insisted upon holding. That is the way it was,and it stands right there,and has ever since in that organization.

529 Q-Is it not your right then or does it not follow that you are entitled to be first patriarch in the re-organized church?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that the same is incompetent, irrelevant and immeterial, is not cross-examination and calls for an opinion of the witness.

530 Q-Do you understand the question? A-Yes sir.

531 Q-Well what is your answer? A-I so understood it at first. At first that was my impression,but upon mature reflection I decided differently. At first I understood that the office of patriarch followed up the organization of the church as it was at the time of the death of Joseph my brother, and I so understood at the time that that particular office ought to have been established in the Re-organized church,but no more mature reflection and examination of the law of the church in regard to hereditary rights,the office of patriarch I found would naturally follow my brother Hyrum and his family according to the law of the priesthood that being handed down from father to son,and my brother being a patriarch,accordingly the office of patriarch would have the right to fall on one of his sons, who is now in Utah.

532 Q-He is in Utah you say? A-Yes sir.

533 Q-One of Hyrum's eldest sons holds that office in Utah?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reason that the same is incompetent, irrelevant and immeterial,is not cross examination. and calls for an opinion of the witness, or a statement of hearsay testimony as it does not appear that the witness knows of his own knowledge what the facts are in relation to the question regarding which he is questioned. A-There is one of Hyrum's sons holds that office in Utah,and that is the reason why I gave up my ideas in connection with it. That is one of the reasons why I gave up my ideas that the office of patriarch aught to be established in the Re-organized church,and knowing that the priesthood aught to be handed down from father to son,therefore my nephew who is the President of the Re-organized church holds a legal claim to the office which he holds by inheritance of the office from his father.

534 Q-Do you apply the same rule to your other nephew who belongs to the Salt Lake church? A-Yes sir. I claim that that rule applies to one man just as well as it does to another,and that there are no exceptions to it.

535 Q-And hence you gave up your claims? A-Yes sir, for I did not claim to be the son of Hyrum Smith.That was the reason I did it.

536 Q-Did what? A-That is the reason I gave up my claim to the office of patriarch, because when I came to study the law in relation to the law of inheritance and descent, I found that the eldest son of the family becomes the inheritor of the crown, and especially in this so in all kingly families and I understood that is the principle that was handed down from all the prophets,and is exemplified in all of the books and authority amongst us. I understand that is the principle that all the prophets taught even down to Christ.

537 Was the old church that was established or organized under Joseph Smiths auspices,or under his authority,was that a kingly government? A-No sir.

538 Was there such a government as taught that sucessorship would follow or descend to his oldest son or to all eldest sons of the office that the father held to the son? A-No sir,no further

than that the doctrine of sucession was generally taught and understood as applying to all offices of that nature.

539 Q-By whom was that doctrine taught? A-The doctrine of sucessorship was generally taught by the ministry of the church. They were the only authorized teachers, and it was generally understood in the church as taught by them. I think that the doctrine that they taught can be found exemplified in the book of Covenants, where it says, "This priesthood was confirmed to be handed down from father to son", and the law says in the book we are goverened by""ye are lawful heirs according to the flesh". That is what the law says, and consequently that is why I surrendered all the claims which I had assumed, or professed to have received, as soon as my ~~xxxxxxxxxxxxxxxx~~ nephew came forward to assume a position which I had previously acknowledged to be his according to his natural rights as a legal suce ssor of his father, my brother Joseph Smith.

540 Q-Well that is your explanation of this matter? A-Yes sir I have tried to explain it as best I could. Of course there is a great many of these things that have to be explained, and I don't know how I have succeded, but I have done the best I could. Now I wish to say this in connection with my answer to these questions, that in answering questions such as these, when the surrounding circumstances are generally explained, of course it has a bearing of these causes, because it is more generally understood that where the right exists or where the wrong exists it is pointed out and discovered, or placed in such a light that any one can see the right from the wrong.

541 Q-Did your church before it was disorganized make any claim to the temple lot here?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent, irrelevant and immeterial, and is not cross examination.

A-I have never done so.

542 Q-Did your church before it was disorganized make any claim to the temple lot in controversy in this suit? That was the question? A-I have never made any personal claim to the temple lot.

543 Q-The question is did your church before its dissolution or disorganization make any claim to the temple lot? A-No sir.

544 Q-Did you as the respective representitive of your church make any claims to it? A-No sir.

545 Q-Your church before it was disorganized did not make any claim to this temple lot? Is that your testimony? A-Yes sir it did not make any claims that I am aware of. If it ever did I did not know any thing about it, and I don't think it could have done it very well without my knowing of it.

546 Q-You have no claim against that lot then? A-Individualy I have not, any further than the interest I have in it as a member of the church which I think is rightfully and lawfully entitled to it. That is the only claim I have to it, and I hold that in general with the church to which I belong. Of course as a member of that church I claim to have a right to the lot in common with the rest of the church, and we claim that because of the fact that the fact that the lot was purchased with the property or monry that was collected in the church for the very purpose, during the time that I was a member of the church.

547 Q-Do you know of your own personal knowledge that it was so purshased?

Counsel for the plaintiff objects to the question asked the witness and on the ground and for the reason that the same is incompetent and irrelevant

and immeterial and not cross-examination and a repetition of matter already gone into.
A-I know a man was appointed for that purpose and the money was collected and placed or depositied into his hands,and he was sent out in this country here to purchase the land,and he did purchase it. Now these are the facts that I know about ~~x~~ ~~xxxxx~~ as well as I know anything,yet it is a fact that I did n't see the money paid over to him, or was not with him, when the land was purchased,but it is here to show for itself that he purchased it.

548 Q-The question is ~~xix~~ do you know he did it? A-I could not testify that he laid out the money to purchase that land but it was understood as a general thing by the church that the money was devoted to that object and applied in that way.

549 Q-Was applied towards the purchasing of this land? A-Yes sir.

550 Q-That was a mere rumor was it not? A-No sir it was a matter of general conversation and knowledge. It was bought with money that was contributed to when I was a member of the church.

551 Q-I believe you stated you ~~xxx~~ did not pay any of that money yourself? A-I did not personally,-no sir.

552 Q-Did you know Austin Cole? A-Austin Cole?

553 Q-Yes sir? A-Well I couldn't say as to that. The name sounds a little familiar with me. I think there was such a man existed at one time. For the name sounds or seems familiar to me in some way,but my memory does not bring him personally before me at this time.

554 Q-Did you know Austin Cole, William Marks and Leonard Soby? A-Yes sir, I believe there were such men.

555 Q-If so where did you know them? A-I have a distant recollection in some way that there were men of that names that belonged to the church,but my memory does not bring them all back to me now.

556 Q-If there were such men and you knew them, where did you know the men,-that is where did you know them at? A-I think I became personally acquainted with Austin Coles in Kirtland. I have a kind of an indistinct recollection or memory of knowing a man by that name there.

557 Q-Did you know him at Nauvoo? A-No sir.

558 Q-You did not? A-No sir, I do not think I knew him at Nauvoo.I may have known him there,but I rather think it was at Kirtland.

559 Q-What did you know, if anything,as to his character?
Counsel for the plaintiff objects to the question asked~~x~~ the witness for the reason and on the ground that the same is incompetent,irrelevant and immeterial,and is not cross examination.
A-I have no memory at all as regards the character of the ~~xxx~~ man.

560 Q-I mean in reference as to whether or not he was a truthful man?
A-I have no knowledge as to that. I have no knowledge that he was anything else but a good man,for I don't remember anything about it one way or the other.He was a good man for all I know.

561 Q-How about William Marks? A-What about him?

562 Q-Yes sir? ~~A~~-How about him in reference to the nature of his character?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that the same is incompetent, irrelevant and immeterial,and is not cross examina~~xx~~tion.
A-William Marks was a good man.

563 Q-And Sobey?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground as set forth in the objection

to the last question to which objection is had.
A-He was a good man for all I know to the contrary. So far as I have any knowledge he was a good man.

564 Q-Did you know any of these men intimately? A-William Marks I knew him intimately,but the others I did not know so intimately.

565 Q-You know Marks intimately? A-Yes sir, but the others I was not so well acquainted with.

566 Q-Now with reference to the doctrine of the church during the life time of Joseph Smith your brother,~~xxxx~~ that were recognized in the church but which they were commanded not to publish? A-I have no recollection of any item of that kind. I have no recollection or knowledge of that kind of any item that they were commanded not to publish.

567 Q-I will put the question in this form Mr. Smith,-were there any revelations ever ~~xxxx~~ given which they were commanded at the time not to publish?
Counsel for the plaintiff objects to the questionx asked the witness on the ground and for the reasons that it is incompetent and inmeterial, and got cross examination, and does not call for the best evidence.
A-What is the question?

568 Q-I asked you if you knew or had any knowledge of any commandment that was received by the church, which the churc was commanded not to publish? A-Not that I know anything of.I have no idea that there ever was,for I have nothing on my mind now that makes me think there ever was anything of that kind given that was accompanied by a command not to be published. I never heard of anything of the kind and it was never suggested to me before that there was anything of the kind either.

569 Q-To refresh your recollection I will read two and a half lines from the book of doctrine and Covenants, exhibit J,on page one hundred and one,and you look while I read will you?
By Mr Kelley,-"I object to the counsel reading if the witness is competent to read for himself,and there is nothing here to show that he is not competent to read for himself,-in fact it appears that the witness is competent to read and has read in the process of his cross examination a number of extracts from ~~xxxxxxxxxxxxxxxx~~ various exhibits and other documents and phamphlets submitted to the witness by counsel for the defendent".

570 Q-Well here it is,-"And I command you that you preach naught but repentence,and show not these things unto the world until It is wisdom in me". Are you acquainted with that command?
A-Well I have read that thing and seen it a thousand ~~xx~~ times before but this is the first time that I ever heard it insinuated that there was anything secret about it. I never ~~xxxx~~ understood that there was anything secret about it before,or that there was anything secret arising from that.
By Mr. Kelley,-"I move ~~xxxx~~ to exclude from the record that portion of the paragraph that has been read by the counsel for the defendents,unless the whole paragraph was read. I insist that if any portion of the paragraph is offered that the ~~xxxx~~ whole thing shall go in,but we object to any part of it as ~~xx~~ immeterial and irrelevant."
By Mr. Southern,-

571 Q-Then Mr. Smith in pursuance of the request of the counsel for the plaintiff I will ask you to read the whole of that paragraph in which is found the quotation I have just called your attention.~~xx~~ Read from the top of page one hundred and one the rest of the paragraph?
By Mr. Kelley,-"I insist that if any part of the paragraph is ~~xx~~ read

that the whole of it be read whether it begins at the top or the bottom of the page".

By Mr. Souther,-

572 Then I will withdraw my request,or rather my question,and with the, consent of the counsel for the plaintiff agree that ~~the~~ section two beginning at the top of page one hundred and running over on page one-hundred and one may be copied into the record by the reporter,and waive the reading of same at this time?

Counsel for the plaintiff objects to the offer of proof for the reasons that the same is incompetent,irrelevant and immeterial,and is not proper cross examination."

The Paragraph above referred to is as follows,-"

"Again it is written eternal damnation;wherefore it is more expressed than other scriptures that it might work upon the hearts of the children of men,altogether for my glory;wherefore I will explain unto you this mistry,for it is meet unto you to know,even as my apostles. I speak unto you that are chosen in this thing,even as one, that you may enter into my rest;for,behold,the mistry of godliness,how great is it? For,behold,I am endless,and the punishment which is given from my hand is endless punishment,for endless is my name; wherefore,-eternal punishment is Gods punishment. Endless punishment i s Gods punishment.wherefore,I command you to repent,and keep the commandments ehich you have received by the hand of my servant Joseph Smith,Jr.-in my name and it is by my Almighty power that you have received,therefore I command you to repent,repent,least I smite you by the rod of my mouth,and by my wrath,and by my anger, and your sufferings be sore,-how sore you know not,how exquisite you know not,yea how hard to bear you know not.for behold,I,God,have suffered these things for all,that they might suffer if they would repent;but if they would not repent they must suffer even as I;which suffering caused myself,even God,the greatest of all to tremble because of pain,and to bleed at every pore and to suffer both body and spirit,and would that I might not drink the bitter cup,and shrink;nevertheless glory be to the Farther and I partook and finished my preparations unto the children of men;wherefore I command you again to repent, lest I humble you with my Almighy power,and that you confess your sins lest you suffer these punishments, of which I have spoken,of which in the smallest,yea,even in the least degree, you have tasted at the time I withdrew my spirit. And I command you that you preach naught but repentence,and show not these things unto the world until it is wisdom in me;for they cannot bear meat now,but milk they must receive;wherefore they must not know these things lest they perish".Learn of me and listen to my words;walk in the meekness of my spirit, and you shall have peace in me. I am Jesus Christ;I came by the will of the Father and I do his will".

572 Q-As the counsel for the plaintiff for has objected to this paragraph, I will ask you if that was the law of the church upon the subject treated of in that paragraph?

Counsel for the plaintiff objects to the question asked the witness on the ground that it does not call for the best evidence but calls for an opinion of the witness,and is irrelevant and immeterial,and is not proper cross examination.

A-Is that the book that is recognized as the book of Doctrine and Covenants?

573 Q-Yes sir? A-I do not know any reason why that should not be accepted as the law of the church.

574 Q-Mr Smith have you any personal interest in this case which is now pending and upon or in which you have been testifying?

A-No sir.

575 Q-You have no personal interest in? A-None whatever personally the only interest I have in it is the interest that a member of the church would naturally be expected to feel in the recovery of property to where it justly and rightfully belongs That is all the interest I have in this case sir.

576 Q-That is the only interest you have in it then? xxxx

by the Spirit, as a reward for the industry and sacrifice that marked its grection that was recognized as an endowment, an additional blessing and bestowal of spiritual gifts and spiritual influences and power and its corresponding effect upon the ministry of the church.

581 Q-Then if I understand you correctly Mr. Smith the endowment was simply a greater outpouring of the Spirit with reference ~~with reference~~ to ~~same as on the~~ Day of Pentecost? A-Something similiar. Something of that nature was generally expected and talked of that such would probably be the application of what was meant by the endowment. That was generally supposed to be what the obligation meant.

582 Q-In your examination yesterday Mr. Smith, and to-day you stated that you still held the office of an apostle? A-Yes sir.

583 Q-And you do still continue to hold that office? A-I do.

584 Q-That is the office of an apostle continued with you from the time of your ordination in 1835 in the old church until now, and will continue on? A-Yes sir.

585 Q-Now please state to the reporter what you mean by that continuing apostleship?

By Mr. Southern,-"I object to that question or to any answer that may be made to it because it is a repetition of matter that has been heretofore been testified to by this witness, and because it is not pertinent now to any of the issues in this case". A-On the ground that any priesthood so held in our church is an everlasting principle that has been handed down through vast periods of time or ages,-from Adam down to the days of Moses through Noah and Abraham, and from Moses to Christ. The ordained authority of the priesthood is everlasting, or lasts through life, and I held that as I had been lawfully ordained in the old church in the days of Joseph as an apostle, and my ordination in relation to that I held conferred upon me that priesthood which is represented by Paul and Hebrew as being "without father, and without mother and without descent". It is an eternal principle handed down by God through his apostles and disciples and who are ordained thereby and I consider that I still hold under the influence of an ordination, that apostleship.

By Mr. Kelley,-

585 Q-You say that you still consider that you hold your apostleship to which you are ordained in the old church under the dispensation of your brother Joseph Smith? A-I do sir, I consider that I still hold it with all its honor and power, for I do not think that it has been taken away from me by either God or man, nor will it be taken away from me. No sir, it has not been taken away from me by either God or man or by any other authority. It is for this reason sir that I claim I have the right to preach the gospel right here in this city of Independence, or in any other part of the world I see fit so to do, or in the islands of the sea, under that authority. I claim the right to do this by virtue of the authority vested in me by reason of that ordination, and with the power of God which is ever present with his priesthood who speak his word with a singleness of purpose and with the object of winning souls to his standard, or to a knowledge of his truth as it stands revealed to us.

586 Q-I want to ask you if you claim to hold the office of one of the twelve apostles in the re-organized church, or do you recognize the right of the church to place any one in that office? A-I do not hold any office of apostle in that respect under the re-organized church in that respect, for I have never been invitied by the

re-organized church to that position,neither have I ever asked them to accept me in that position.

587 Q-I will ask you Mr. Smith ~~xxxxxxxxxx~~ if you concede it to be a right of the re-organized church,and also of the old church to name the parties who shall fill the several offices in the church? A-I understand that in the reorganization of the church,-that in re-organizing a church,that the idea of re-organizing a church in relation to this organization,it was simply not ~~xx~~ with the idea of the introduction of any new doctrines to be organized into the church as a part thereof or as a part of its doctrine,but simply a transmission of the old doctrine that was taught in the old church in 1830 and keeping it in the re-organization. I understand that the idea of the re-organization was simply to collect together that kind of doctrine or matter,and the scattered elements of the old church,and bring them back again into the fold and restore the old church again through the meeting of this organization to nearly the same condition it was in before the disruption, in other words to simply fill the break up that was ~~xxxxx~~ caused by the death of Joseph Smith and the disruption of the church that followed that event,and the reunition of the scattered fragments of the church that still adhere to the old church as taught in 1830 and 1835. That is the way I understood it that the reorganization was effected by the gathering again together into one church organization that element that had become scattered or broken up through the ~~xx~~ means of the death of Joseph Smith,and by the collection of the elements together again they became organized together again according to the idea of the re-organization,and no new doctrine was to be introduced into the church,but simply a collection of the scattered elements and uniting them together under one organization with the same doctrine that was taught in the days of Joseph Smith.

588 Q-It was a simply collecting together again of the members who had belonged to the old church? A-Yes sir. And they were organized into the capacity of a new church goverment.

589 Q-Yesterday Mr. Smith or this morning,I forgot which,your attention was called to paragraph forty,page 313 of Exhibit J, you read a part of that paragraph commencing at the first of the paragrapg,and reading up to the word"myself,on page two hundred and fourteen. You may now read the balance of the paragraph to the reporter,-those three lines at the head of the ~~x~~ page,after the word"myself"? A-Behold his priesthood no man taketh from him but verily I say unto you,another may be appointed unto of the same calling"? Is that all you want I should read?

590 Q-Yes sir,if that is the balance of the paragraph that is all I want you to read? A-Well that it is it,- that is all of it. Now that lays down the rule that the priesthood can never be taken from me,but it states that another can be appointed to the same place. As I have never asked for an apostleship,Idon't know that it would be granted to me if I did ask for it,-so far as that Is concerned I do not know.

591 Q-Now you stated in your cross-examination Mr. Smith that the right of the priesthood descended from father to son? A-Yes sir.

592 Q-That is what you stated? A-Yes sir, and that is my understanding of the law of the church,

593 Q-To what son does it descend? A-The eldest son.

594 Q-It descends to the oldest son? A-Yes sir,that is my under standing of the rule.

595 Q-Is that true without reference to the fitness of the oldest son? A-I could not say as to that.

596 Q-Or would it follow if the oldest son should apostatize from the faith and church,that no other person could hold the office?
By Mr.Southern,-"I object to that question for two reasons,-first, because it is leading,and in the second place I object to it because it suggests to the witness what his answer should be"
By Mr. Kelley,-
597 Q-State the facts about that as you understand them?
By Mr. Southern,-"I object to that question in its present form because it refers to the first question,-the one just asked in other words I object to it b ecause it makes the first question which was most assuredly was objectionable for the reasons stated,a part of the last question". A-Shall I answer the question?
By Mr. Kelley,-
598 Q-Yes sir, answer the question? A-If the legal heir in sucession had no fitness to fill that office,I woulf consider that the highest authority in the church at that time at the death of the first Presidency,would have the right to take control in the management of the church. If the legitimate heir would be an idiot,I would not consider that he had a right,or that he had a very good chance to be a fit subject to govern or preside over a church,but there is generally a President that has power,and if in that Presidency one of them steps out or dies,the next one in office holds the power of goverment that the other one held in the control of the goverment. Now that is as I understand it.
599 Q-I will ask you this question,In the event of the patriarch in the church or in case the eldest son has not any fitness for the office his father held,or by reason of anything departs from the faith of the church,then as you understand the law, where does the right to act as patriarch go?
By Mr.Southern,-"That question is objected to because it calls for an opinion of the witness".
A-I would consider of course that the apostacy of the father, would of course destroy the right of the son to the offi ce, or to the sucession.
By Mr. Kelley,-
600 Q-Suppose it was the son apostized and not the father, what then would be the effect?
By Mr.Southern,-"These questions are all objected to because they are in proper form to make them competent on re-examination in chief,and because they call for the opinion of the witness".
A-In answering that question allow me to explain what I mean in regard to that. If that man had the same kind of power and authority over an organization than is simply held over a cattle ranch or something like that,I would not consider that if he apostised there would not be anything left for him to do ,-the matter of his apostacy would not cut any figure, for in that case all the son would have to do would be to step in his fathers tracks,as in that case the power that would descend to him would refer only to the temporal affairs of this world,and all he would have to do would be to step in and take charge of that cattle ranche,but in the case of a patriarch in the church who wields a spiritual function the matter of his apostacy would cut him off from the sucession to the office his father held,for it would be a spiritual function and not a temporal function. that he would succeed to
By Mr. Kelley,-
601 Q-Suppose that the oldest son of the patriarch in the old original

faith abandoned the doctrine of monogamy,and adopted the faith of polygamy,then in that case,as you understand the law of the original church would he suceed to the office of patriarch in that church that taught the doctrine of monogamy only?

By Mr. Southern,-"That question is objected to because it is most flagrently leadi$_{n}$g, and because no ground has been laid for the examination of the witness as an expert".

By Mr. Kelley,-

602 Q-You may answer the question? A-As far as my knowledge goes,or my angwer is concerned,I think I have answered that question already. My answer is that a belief in the doctrine of polygamy,or its practice,would of course disfranchise the man from his right to his sucession to the office his father held and from all and every right he held by reason of his being a member of the church of ghrist as it was originally constituted.

603 Q-Why would it have that effect? A-It would have the effect of disfranchisement,because of the fact that it is at ~~xxxxxxxxx~~ varience with the doctrine as taught by the church,-because it is not in accordance with the doctrine as taught by the original church,and the doctrine as taught by the re-organized church.

604 Q-You stated also in your cross examination that these parties that were connected with the church that you under took to ~~x~~ organize left you because they under stood that~~x~~ there was another link in the sucession that was more entitled to be the head of the church than were you yourself? Now you may state what that link of sucession was?

By Mr. Southern,-"I do not understand that Mr. Smith made that statement".

By Mr. Kelley,-

605 Q-That is in effect what you stated is it not? A-I stated that the reason for the break-up of my organization was that these parties who had forsaken my organization had found that there was another claim that was entirely superior to my claim.

606 Q-That is what they stated? A-Yes sir.

607 Q-That some one else had a claim superior to your claim to be the leader of the church? A-Yes sir.

608 Q-Now who was it possessed that claim? A-That claim was as they publicly stated the claim of he who at that time use to be "called" young Joseph Smith".

609 Q-On what basis was the claim of young Joseph Smith based? A-On the ground that as he was the eldest son of my brother Joseph Smith the first President of the original church,he was entitled to the first Presidency of the church,and I recognized that claim as soon as he asserted it publicly.

610 Q-Is that the present President of the re-organized church? A-Yes sir.

611 Q-Do you know Mr. Smith whether or not the temple at Nauvoo was ~~x~~ ever finally completed? A-I do not know any further than I heard,-I have been told by others who have said,-

612 Q-Well you need not state what others told you. My question is do you know of your own knowledge whether or not it was ever completed? A-Well that is all that I know about it,and that is what I have been told by others who were there. I was not there when the temple was completed if it was ever built,but I was there when the foundation was laid in '41 but after ~~xxx~~ that I was not there,and had nothing to do in regard to the building of the temple;neither did I ever receive any endowments in regard to what was promised on it s completion. There was some endowments promised

on the completion of the temple,I never received any of them, but whether the temple was ever completed or not I do not know,but I understand it was not.

6I5 Q-On your cross-examination Mr. Smith you stated that the church when it was first organized was called the"Church of Christ?" A-Yes sir.

6I4 Q-Now I will ask,if you recollect about the time when there was a specific name given to the church,and give the circumstances surrounding the giving of that name? A-When the name was changed?

6I5 Q-Yes sir,if it ever was changed? A-I think that the name was changed from the church of Christ,and the church was denominated"The church of Jesus Christ of Latter Day Saints" in I834 and that the circumstances surrounding that change of name were,that the temple had been built,-the walls of a temple had been put up in Kirtland,Ohio.,and the matter was talked over in regards to the change of the name,or as to what the inscription should be that was to be placed on that temple, and of course when this subjectx was being talked over in regard to the inscription that was to be placed on that temple, I think it was said it was given in a revelation that the name was to be called "The church of Jesus Christ of Latter Day Saints",and that inscription was placed on that temple in I834. That,so far as my knowledge is concerned,was the first knowledge I had of that matter in relation to the title of the church. It was after that entitled the Church of Jesus Christ of Latter Day Saints,and that was the inscription that was put on that temple. There has been conversations frequently as to the term or word"Jesus",and it was said that it was not courteous to call anybody by his right name,and when it came to be talked over in relation to the name of the church,and Christ,it was contended by some that Christ was not his full name that Jesus was his first name,and when we come to put the given name and the surname together it made it"Jesus Christ",and as a consequence the church was called the"Church of Jesus Christ", That was right I think. for there is nothing improper in calling anyone by their given name,or by their right name,and as his given name was "Jesus",of course we call him "Jesus Christ".

6I6 Q-I will ask you now if the church organized in I830 if it was known as the Church of Jesus Christ of Latter Day Saints from I834 down to the time of your brothers death? A-Yes sir.

6I7 Q-Then I understand you to say that from I834 up to the time of your brothers death the church organized in I830 was known as by the name and title of the church of Jesus Christ of Latter Day Saints? A-Yes sir. It was known by that title up to the time of Joseph Smith's death.

6I8 Q-I will ask if you were at any time a representative of the people of Hancock County,Illinois,and for Nauvoo? A-I was.

6I9 Q-In what capacity? A-As a member of the legislature of Illinois.

620 Q-What were you doing from I86I up to I865? A-In I84I.

62I Q-In I86I I mean? A-In regard to what. What do you refer to.?

622 Q-What were you doing in I86I? A-In regards to that history I was preaching during I86I,-what period of time did you mention?

623 Q-I said from I86I down to I865? A-I was preaching during that time.

624 Q-Where? A-I was preaching in Southern Pennsylvania.

625 Q-What were you doing during the war of the rebellion? A-I was

serving in the army as a soldier.
626 Q-From what state? A-From what state?
627 Q-Yes sir? A-From Illinois.
628 Q-When did you enlist? A-At Rock Island.
629 Q-When? A-I enlisted on the 25th day of February I865. and served in the army,-no it was on the 25th day of February I864 and I served in the army in the war of the rebellion nearly two years until the war closed,when I was no longer needed in the service of the goverment and was discharged.
630 Q-I will ask you whether or not it was after you returned from the army that you united with the re-organized church? A-Yes sir it was after I returned from the army,
Re-cross-examination by Mr. Southern,-
631 Q-Mr. Smith will you state whether or not it is a fact that the Salt Lake church has the same name precisely,as that which you say was adopted in I834?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is improper re-cross-examination,and is incompetent,irrelevant and immeterial,and does not call for the best evidence.
632 Q-Do you understand the question? A-Yes sir.
633 Q-Well what is your answer? A-They make the same claim to the title of their church. They make the claim that that is the title of their church.
634 Q-That is the title of their church? A-Yes sir. That is the title they claim.
635 Q-I will ask you if it is not a fact that nine of the twelve apostles at Nauvoo after the death of your brother did not go to Salt Lake with the church?
Counsel for the plaintiff objects to the question asked the witness for the reason that any testimony in regard to the Salt Lake church in any way whatever or any subject whatever,or about any matter or thing whatever, unless the defendants in this case specificially plead an allege in their answer in this case the matters and things about which they are interrogating the witness is incompetent and irrelevant,and for that reason should be excluded from the record".
636 Q-What is your answer? A-What is the question?
637 Q-I ask you if it is not a fact that nine of the twelve apostles that were in the church at the time of the death of your brother did not go west with the church? when it moved to Salt Lake? A-There was nine of the apostles that were named there in the book of Covenants,that were identified with this Utah church under the Presidency of Brigham Young.
Counsel for the plaintiff moves the court to exclude from the records the answer of the witness on the ground that it is irrelevant ,incompetent and immeterial,and is not proper re-cross examination,and the answer of the witness is also objected to for the reason that there is no allegation in the pleadings in this case in relation to the Salt Lake Church in any manner or form,and no allegation that the Salt Lake church is the sucessor of the original church established in I830.
638 Q-I will ask you now if any of those nine elders are in the Re-organized church,or ever were?
Counsel for the plaintiff objects to the question asked the witness for the reason set forth in the last objection to the question last objected to..
A-I do not understand the question sir?

639 Q-I asked you ~~if~~ now if any of the twelve elders that were in the church at the time of the death of your brother Joseph Smith are now members of the re-organized church,or have ever been members of it?

Counsel for the plaintiff objects to the question asked the witness on the ground that for the reason that it is incompetent,irrelevant and immeterial,and not proper re-cross examination.

A-No sir, not that I know if.

640 Q-Are any of their sons in the re-organized church? **

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason s set forth in the last objection to the question herein-before objected to.

641 Q-Are any of the sons of the nine apostles in the re-organized church?

Counsel for the plaintiff objects to the question aske d the witness on the grounds and for the reason that the same is incompetent,irrelevant and immeterial,and not proper re-cross-examination.

A-I do not know that there is.

642 Q-Were you present at the endowment? of which you speak at Kirtland, Ohio? A-What is that?

643 Q-Were you present at the endowment at Kirtland of which you spoke

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompptent irrelevant, and immeterial,and not proper re-cross examination and also on the further ground that the witness has not stated that there was any endowment at Kirtland. The endowments that the witness spoke of was to be at Nauvoo,but according to the testimony of the witness never occured.

643 Q-Well there is a difference of opinion there,-that is all to that there is. I will ask the question anyway,-were you present when the endowment was made? A-At Kirtland?

644 Q-Yes sir? A-Yes sir.

Counsel for the plaintiff objects to the answer of the witness and moves the court to exclude same from the record for the same reason as are stated in the objection to the question to which it is an answer.

645 Q-Do you know what the endowment was at that time Mr. Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immeterial,and is not proper cross exam- x ination or re-cross examination.

A-Yes sir.

646 Q-Well what was? A-It consisted of prayer meeting,-prayers testimonies given,and individual experiences,and the attention of washing the feet and ceremonies of that kind.

647 Q-Was there any annointing connected with it? A-

Counsel for the plaintiff objects to the witness on the ground and for the reason as set forth in the last objection made the question objected to.

A-I don't recollect sir. I don't know that there was any annointing had there at that time. If there was I don't recollect about it. I do not recollect of any annointing administration occuring there,and I do not think there was, for I was there,and if there had been I would have participated in it,and I do not remember of having done so.

648 Q-Why should you have participated in it? A-As an officer of the church I being personally present I would have participated in it,but I do not recollect of any thing of the kind occuring

there was no annointing took place at the endowment. if there was I have forgotten all about it.

649 Q-Do they practice the ordinance of washing the feet in the re-organized church? A-I have not learned that they practice x an ordinance of that kind or have adopted it?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that the same is incompetent,irrelevant and immeterial,and it not proper re-cross examination.

A-I do not understand that the re-organized church has adopted that ordinance,but if I have the right to say something on that point I would like to do so if I am allowed.

By Mr. Kelley,-

650 Q-Well go ahead and state what you want to on that subject? A-I have understood that the subject is under consideration and that is to be adopted some time in the future when that ordinance will be assumed.

By Mr. Southern,-

651 Q-Well never mind that,-it is sufficient for you to say that they do not practice it now,and that is what I understand you to say? A-Yes sir.

652 Q-Now will you read on page three hundred and fourteen of the book of Doctrine and Covenants,exhibit J,these x few words,-"Behold his priesthood no man taketh from him, but verily I say unto you another may be appointed to the same calling". Now who did that refer to? A-I cannot say.

653 Q-Did it,or did it not refer to David Patten?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reason that the same is incompetent,irrelevant and immeterial,and not the best evidence,and is improper re-cross examination.

654 Q-Did it or did it not refer to David Patten? A-There is a mystery connected with that that I am incapable of explaining just now.Probably I could explain it if I had time to reflect.You will notice from the surroundings why that statement was made.

655 Q-Well do you know or do you not know whether it referred to David Patten? A-No sir, I do not know to whom it referred to particularly for I am not familiar with the surroundings in connections with that paragraph.

656 Q-Well read that paragraph over,and read the close of it on the next page.Read it for your own information so that you can aaertain if you can answer the question I have asked you. You need not necessarily read it aloud?

Counsel for the plaintiff objects to the questionx asked the witness for the witness for the reason that it is incompetent, irrelevant and immeterial,and is not proper re-cross examination,and is not the best evidence.

A-Why of course from the statements that are made here it refers of course to David Patten.

By Mr. Kelley,-Since the witness has answered the question I insist upon the paragraph referred to going into the record".

By Mr. Southern,- Well I am sure that we have no objection to that being done".

The paragraph above referred to which the witness was asked x to read for his own information,is as follows,-"And I give unto you, my servant Brigham Young,to be a President over the twelve travelling counsel,which twelve hold the keys to open up the authority of my kingdom upon the four corners of the x earth and after that to say my word to every creature;they are:Heber C.Kimball Parley p. Pratt Orson

Pratt,Orson Hyde, William Smith,John Taylor, John E.Page. Wilford Woodruf,Williard Richards,George A,Smith.David Patten I have taken unto myself;behold this priesthood no man taketh from him;but verily I say unto you another may be appointed unto the same calling ".

657 Q-The reference there is to David Patten? A-Yes sir.

658 Q-Was he not dead at that time? A-Yes sir.
He was dead at that time this revelation was given.

659 Q-You stated in your re-cross examination that the priesthood descended to the oldest son? A-Yes sir.

660 Q-Was young Joseph Smith,-now the President of the re-organized church,- the oldest son of Joseph Smith,his father? A-I so understand it.

661 Q-Was he the first born? A-
Counsel for the plaintiff objects to the question asked the witness for the reason that it is incompetent and immeterial, and not proper ~~xxxxx~~ re-cross examination.
A-I cannot answer that question,because I am not familiar enough with the family association to answer that question. What I know is that he is the oldest son now living so far as my personal acquaintance is concerned.

662 Q-Was Joseph Smith your brother~~x~~, the oldest son of your father? A-No sir.

663 Q-He was not the oldest son of your father? A-No sir he was not.

664 Q-You were older than he was? A-No sir he was five years older ~~xx~~ than what I am.

665 Q-Was Hyrum the oldest? A-He was older than what Joseph was.
Counsel for the plaintiff objects to the question asked the witness and the answer of the witness thereto,on the ground that both question and answer is incompetent and immeterial,and moves the court to exclude the answer from the records for the reasons stated.

666 Q-What is that? A-I say that he was older than Joseph.

667 Q-Hyrum was older than Joseph Smith? A-Yes sir.

668 Q-Was he the oldest male member of the family? A-He was not the oldest male member of the family for the oldest male member of the family died before that time.

669 Q-You stated that the temple was built ~~in~~ at Kirtland in 1834,and the name of the church was inscribed on the corner stone I believe? A-No sir I did not state that.

670 Q-Well what did you state about that? A-I said it was inscribed on the frontispiece.Not the corner stone,but the frontispiece near the apex of the building.

671 Q-Well now will you answer this question? A-I will if I can.

672 Q-Whether you ~~xxxxxxxxxxxx~~ may not be mistaken about the year? A-About the year?

673 Q-Yes sir,whether you may not be mistaken about the year that the temple was built, or that inscription was placed on it? A-I am under the impression,-I am of the opinion that the time the inscription was put on there the temple was not quite finished. I do not think that it was quite finished,but it was measurably and quite extensively approaching completion. The walls had been laid up,but it was not quite finished.It was not entirely finished until ~~in~~ after 1835.

674 Q-What I want to know is if you are sure that the inscription was put on there in 1834? A-Yes sir,

675 Q-Or was it not in 1835? A-No sir I do not think it was in 1835. Now I would not like to swear postively it was put there

in 1834 I know however that it was put there for I have seen it myself a great many times,and I remember seeing there before the temple was completed,and I think it was in the year 1834,that the title of" The Church of Jesus Christ of Latter Day Saints",was officially taken for the title of the church,and the inscription was placed on that temple in accordance with the change that was made in the title of the church. I know these to be facts,and I know that it was put on the church,and I think it was in 1834. I am quite postive but not absolutly so,that it was in 1834 that this was done.

676 Q-Is this not the fact,that the title of the church was"The church of Latter Day Saints"? A-No sir. The name "Latter Day Saints came in afterwards.

677 Q-Was the church ever known by that name? A-What name?

678 Q-The name of "The church of Latter Day Saints"? A-Nominally,-sir,-but in speaking of the church we would very often amongst ourselves speak of it ,or of ourselves,as members of the"Latter Day Saints," but this was only in common conversation among ourselves,but when any person asked us what the title of the church was we would tell him that it was"The church of Jesus Christ of Latter Day Saints."

679 Q-Now the church you say was never known officially as the "Church of Latter Day Saints"? A-Only in that way. I do not understand it that way,that that was the especial identity of the church,that it was known by that name officially. The especial and acknowledged title of the church at that time,was the Church of Jesus Christ of Latter Day Saints. 680 Q - How was that title obtained? A - Well I am

681 Q-Then if it was,-if that title was settled by revelation what right had any man,or body of men,or conference of men,to change the title,and call it"Re-organized Church of Jesus Christ of Latter Day Saints"?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that the same is incompetent,irrelevant and immeterial,not proper re-cross examination,and calling for and opinion pure and simple from the witness.

682 Q-Now answer that question if you can? A-What is the question you asked me?

683 Q-I asked you what right had any man or body of men,officially,otherwise to change that name?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is irrelevant,incompetent and immeterial,and not proper re-cross examination,and calls for an opinion of the witness.

684 Q-Will you answer the question? Mr. Smith? A-Well after some reflections probably I will.

685 Q-Well I would like you to do so. Do you give it up? Can't you answer it? If you can't I do not insist upon your doing so,-I do not insist upon a man doing that which is impossible, but if you cannot answer the question I would like for you to say so.

By Mr. Kelley,-Well he has not said he cannot answer it. Give him time Colonel and he will answer it".

By Mr. Southern,-Well I merely suggested to him that he is not bound to answer the question if he cannot do so",

By Mr. Kelley,-He understands his business Colonel,-don't be alarmed,let the reporter read the question to him". A-I understand the question sir, I understand the question all

matter of the opinion of the witness if I have not had any knowledge of it was settled by the principles of revelation

right and I will answer it. I presume that at first I could not give a proper answer to that question for the reason that it is a matter that requires some thought,-probably a good deal of thought to be given to the solving of a very small problem in history. When a church is re-organized,the church it self under that re-organization I would hold we have the right to adopt its title under the re-organization that had been effected,and as we claim to be ~~xx~~ a re-organization of the old church itself,the church so organized would have a right to adopt the title that belonged to the original church with the prefix "re-organized"which would show that it was a re-organization of the old church.This is what has been done in this instance.

By Mr. Southern,-

686 Q-That is your answer to the question? A-Yes sir.

687 Q-And the only answer you have to make to the question? A-Yes sir I do not know of any other answer that I can make.

688 Q-Well now I will ask you from what authority does a church derive the right to change a name that was given by revelation?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is incompetent,irrelevant and immeterial,and not proper re-cross examination,and calls for an opinion of the witness.

A-I don't conceive that the prefix "re-organization"to the title of the church constitutes a change in the ~~xxxx~~.name.I do not see it in that light sir.

689 Q-Will you answer that question? A-I have.

690 Q-I asked you by what right the re-organized church saw fit,or where it derived the right to change the name of a church that was given by revelation? A-The Church ofJesus Christ of Latter Day Saints,in the re-organization holds all the powers belonging to the former organization,and under that poter assumes the right of course to take the name of the old church without any interference of course with the revelation establishing the title.The addition of the word "re-organized" as I understand it was merely adopted to indicate that the church as it now exists was a re-organization of the old church,and the adcition of that word does not in my opinion interfere,-it neither adds nor takes away from any of the powers that were given or bestowed by reasons of the revelation establishing the title of the church.It is merely as I understand it an acknowledhement,-the re-organization is simply an acknowledgement of the right to that title,and does not make any change in it whatever.

691 Q-From what authority did they get the right of re-organization?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is incompetent,irrelevant and immeterial,and is improper re-cross examination,not the best evidence.

A-Why the right to re-organize certainly rises out of an especial principle of law in all governments,or in the government of all matters that through any cause or from any reason becomes dissolved by the influence of ~~the~~ destructive elements,whether temporarily or other wise,and as a natural consequence there should be a ressurection or gathering together again of these dissevered and scattered elements ~~in~~ into the body. In that case it seems to me to be eminently proper that the title of the re-organized body should state the fact that it is a reorganization.Have I to make a speech to enable you to understand it. If it is necessary I can go on and preach a discourse and if I was well enough I would preach

a discourse on the question to-morrow to inform you of these matters,but I am not able to do it. Now upon the principle of the authority to organize,or re-organize,if I was to answer that question fully,I might probably have to illustrate in order to show the existence really of the principles that naturally exist for the re-institution of that which through un-toward causes has been dissolved and scattered,but which aught to be preserved,and that it is an obligation that rests upon the shoulders of every one who professed to be a member of that organization,whether it be a church,or any other organization,-to resurrect and perpetuate the doctrine that they themselves have embraced.

By Mr. Kelley,-"Well that will do Uncle William.You need not make a speech here."

By Mr. Southern,-

692 Q-Is there any organization of that old church,excepting that which is known as "The Re-organized church of Jesus Christ of Latter Day Saints"? A-No sir.

693 Q-There is not? A-No sir,-none that I know of.

694 Q-Was there when you had a church? A-Yes sir,there was.

695 Q-Was it the true successor of the old church? A-No sir,it was not.

696 Q-Your church was not? A-No sir it was not.

697 Q-What did you organize it for then,if it was not the true successor of the old church? A-I organized it to save the doctrine of the church from disruption,and to save many of the people from apostacy,and everything of that kind that led to heresies.

698 Q-Did you not pick up some of the fragments of the old church? A-Yes sir.

699 Q-Was not your church just as much entitled to be called the true church as the re-organized church is? A-Yes sir,as long as it existed it had that right. I started in to save as many as I could like brands from the burning,and we have been picking up fragments ever since.

700 Q-Well that will do on that subject.Now will you please read from Exhibit E,the book of Doctrine and Covenants of the old church the preface to that book?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immeterial and not proper re-cross examination.

701 Q-I mean just the heading of the preface? A-Do you wish me to read it aloud?

702 Q-Yes sir? A-I will do so if I can.

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reason that it is irrelevant and immeterial and not proper cross examination.

A-You want me to read the whole of the preface?

703 Q-Yes sir if you desire to do so? A-"To the members of the Church of Latter Day Saints,-Dear Brethern;-We deem it unnecessary to entertain you with a lengthly preface to the following volume,but merely to say that it contains inshort, the leading items in the religion which we have professed to believe.

The first part of the book will be found to contain a series of lectures,as delivered before a Theological class in this place,and in consequence of their embracing the important doctrine of salvation,we have arranged them in the following work.

The second part contains items,or principles,for the regulation of the church,as taken from the revelations which have been given since its organization,as well as from former ones

There may be ~~a~~ an aversion in some of the minds against receiving anything purporting to be articles of religious faith, in consequence of there being so many now extant; but if men believe a system, and profess that it was given by inspiration, certainly, the more intelligibly they can present it, the better.
It does not make a principle untrue to print it, neither does it make it ~~not~~ true not to print it.
The church viewing this subject to be of importance, appointed through their servants and delegates, the High ~~xxxxxxxx~~ Council your servants to select and compile this work. They knew that the church was evil spoken of in many places, -its faith and belief mis-represented, and the way of truth thus subverted. By some it was represented as disbelieving the bible, by others as being an enemy to all good an uprightness, and by others as being injurious to the peace of all governments, civil and political.
We have, therefore, endeavored to present, though in few words, our belief, and when we say this, humbly trust, the faith and principles of the society as a body.
We do not present this little volume with any other expectation than that we are to be called to answer for every principle ~~xx xxxxxxxx~~ advanced, in that day when the secrets of all hearts will be revealed, ~~xxxxxxxxxxxxxxxxxxxxxxxxxx~~ and the reward of every mans labor be given him.
With sentiments of esteem and sincere respect, we subscribe ourselves your brethern in the bonds of the gospel of our Lord Jesus Christ".
Is that all you want me to read?

704 Q-You may also read the names that are subscribed to that? A-Joseph Smith, Jr, Oliver Cowdery, Sidney Rigdon, F.G.Williams. Kirtland, Ohio, February I7th, I835."

Counsel for the plaintiff objects to the question calling for the reading of the preface above set forth, and moves the court to exclude the same from the record for the reason that it is irrelevant and immeterial, and improper re-cross examination.
A-I do not ~~conceive~~ that there is anything improper in the reading of these names. This is simply the acknowledgement of the fact that the doctrine of our Lord and Saviour Jesus Christ was taught at that time in this church, and this is simply a full acknowledgement of that fact. As far as I am concerned I will tell you that I am a believer in the doctrine of the Latter Day Saints,

705 Q-Well sir there is no one disputing that fact that I am aware of. Now will you please read the lines preceding section one in the same exhibit (E)?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that the same is incompetent, irrelevant and immeterial and improper re-cross examination.
A-"Theology. Lecture first. On the doctrine of the Church of Latter Day Saints". This is nothing but a system of lectures on theology as taught by the church, and I have given a good many of them myself at one time and another.

706 Q-Is this book of Doctrine and Covenants regarded as an authority in the church? A-I do not know what book it is.

707 Q-It is the first ~~x~~ edition of the book of Doctrine and Covenants? A-Well I could not answer that for I am not familiar with that edition.

I know there was lectures delivered on the faith for I have heard some delivered and delivered some other myself.

708 Q-Well that is all? A-I am glad of it sir. Thank you.
By Mr. Kelley.-"It is admitted that the value of the prpperty in litigation is in excess of five thousand dollars. That is the admission that is made, and we want the record to show the fact that it is made.

Sworn to before me on the day,within the hours and at the ~~pkx~~ place in that behalf aforesaid and subscribed in my presence this day of I892.

. . . . . .
Notary Public.

J.W.Brackenbury of lawful age,being produced sworn and examined on the part of the plaintiff,deposethand sayeth as follows to wit,-

Direct examination by Mr Kelley,-

Q-Where do you live? A-In Independence.
Q-What is your age Mr. Brackenbury? A-I was born on the 22th day of August I829.
Q-Where do you live now? A-I live here in Independence,Missouri.
Q-Where did you live prior to your removal here? A-In Kansas.
Q-Where did you live prior to your going to Kansas? A-In California.
Q-Did you ever live in Salt Lake City? A-No sir.
Q-Nor in the territory? A-No sir.I only sojourned there a little while.
Q-In Utah? A-Yes sir, I was there only a ~~little~~ while.
Q-Did you ever live at Nauvoo,Illinois? A-Yes sir.
Q-Did you ever live at Kirtland,Ohio? ~~A-I went there in the spring~~ A-No sir. I only lived in Ohio a little while. I was born in Huron County Ohio,but left there when I was a small boy.
Q-How long did you live in Nauvoo,Illinois? A-I went there in the spring of I840.
Q-How long did you live there at Nauvoo ,Illinois? A-I went there in the spring of I840 and left there in I846.
Q-How long were you in Salt Lake City? A-I went to Salt Lake in the spring of '55 and left there,-I lived there until the spring of '57,and came back here in the state again,and went back to Salt Lake in the spring of '58,and from there on through to California.
Q-Were you at Nauvoo at the time of the building of the temple? A-Yes sir.
Q-What is the facts about its ever having been completed? A-As to whether it was completed?
Q-Yes sir. A-It never was completed.
Q-I will ask you if you are or were acquainted with the publications of what is known as the "Utah Church"while you were living in Utah territory? A-Slightly.That is when I came back from California in '67 I became better acquainted. I became until the spring of '69 when on our way here again. We had to stay there that length of time before my mother was able to travel,or to leave there.
Q-You had to stay that time in Utah? A-Yes sir.
Q-Did you belong to the church at that time,if so state what church it was? A-I belonged to this church at that time.
Q-The Re-organized church? A-Yes sir.
Q-Look at that book Mr. Brackenbury,and state to the reporter whether or not you can identify that as an authorized publication of the Utah Church? A-Yes sir.
Q-You identify it as an authorized publication of the Utah church or what is known as the Utah church? A-Yes sir.

was taken sick, and we stayed there on that occasion from the fall of '67 was guaranteed better acquainted while we clothed there, for on our return

23 Q-What is it? A-It is the Journal of Discourses partially,-for I see that a part of it is not here.
24 Q-You are acquainted with that publication? A-Yes sir for I have read considerable in it.
25 Q-I will ask you,-? A-When you speak of that book I don't pretend of course to say that is the same book I have seen and read,but it is the same kind of a book,-the Journal of Discourses is what it is called.
The book identified by the witness is here upon offered ~~xx~~ in evidence by the plaintiff,and is marked exhibit One.
26 Q-Read the title page of Exhibit One to the reporter Mr.Brackenbury? A-"Journal of Discourses given by Brigham Young,President of the Church of Jesus Christ of Latter Day Saints,his two councilors the twelve apostles and others,-reported by G.D. Watt,and humbly dedicated to the Latter Day Saints in ~~xx~~ all the world,-Volume first. Liverpool edition by F.D. and S. W.Richards,I5 Wilton Street,London.Latter Day Saints book Depot,35 Jewin street City.I854".
27 Q-That is all.
By Mr. Southern,-"I move to strike out the answer of the witness because it is not relevant or pertinent to anything in any of the pleadings in this case. That is all of my objection".
Cross examination by Mr. Southern,-
28 Q-How long has it been since you were at Nauvoo Mr. Brackenbury? A-How long?
29 Q-Yes sir? A-How long since I was there last?
30 Q-Yes sir? A-I believe I went back there to visit brother Joseph Smith in '50 I.believe it was.I think it was in '50 that I was there on that visit.
31 Q-That was at Nauvoo? A-Yes sir.
32 Q-Have you been there since? A-No sir.
33 Q-If you have not been there since I850how is it you can speak of your knowledge,and testify that that temple was was not completed? A-Yes sir I can.
34 Q-You can? A-Yes sir.
35 Q-Speak of your own knowledge? A-Yes sir I can.
36 Q-Well I would like for you to state how it is you can speak of it of your own knowledge if you have not been there since I850? A-Why sir I have been to the temple perhaps twenty time,and have been ~~xxxx~~ over it from top to bottom time and again,and I know it was not completed.
37 Q-You do not understand my question,-the question I asked you was how you know it has not been completed at this time if you have not been there since I850? A-I know it has not been finished because it has been torn down. I can't say as to the time it was torn down but it was a short time after that.
38 Q-How do you know it was not completed after you were there? A-I know it because they did not finish it.
39 Q-How do you know it was torn down? A-I know it.
40 Q-You know it? A-Yes sir.
41 Q-How do you know they have not completed it since? A-Well if ~~th~~ they have completed it since it was torn down I don't know anything about that.
42 Q-You don't know anything about that? A-No sir,for I haven't there since.
43 Q-Well the time that you refer to was prior to I850? A-Yes
44 Q-You were there I850? A-Yes sir.

45 Q-And not since then? A-No sir.
46 Q-Were you there in 1844? A-Yes sir.
47 Q-Were you in the temple in 1844? A-Yes sir.
48 Q-How long prior to 1844 was the first time that you had been ~~there~~ there? A-From the very time that the temple was started.
49 You were there Q-From the very time that the temple was started you say? A-Yes sir.
50 Q-All the time? A-No sir.
51 Q-About how often were you there? A-Every few days.
52 Q-You were there and saw it in process of erection? A-Yes sir. I saw it from the start. I was in it when there was wooden oxen in it before there was stone oxen in it,-I was over it and through it time and again.
53 Q-Was there not a wooden font there before the stone ~~font~~ font was put in? A-I believe there was one there sitting on the wooden oxen.
54 Q-Where was that? A-In the basement of the temple.
55 Q-Did you ever see the ceremony of baptism for the dead performed there? A-No sir. I did not.
56 Q-And of that you are postive? A-Yes sir.

By Mr. Kelley,-"The plaintiffs now offer in evidence the title page of Exhibit one in connection with the evidence of this witness, not for the purpose of being bound by anything therein contained or that is contained in the book itself, but only for the purpose of identifying the book so that if it becomes material in the future to show the contents of the book and the doctrines of the Utah Church that the book may be properly identified".

.....

Sworn to before me on this day within the hours, and at the place in that behalf first aforesaid, and subscribed in my presence this day of 1892.

.....
Notary Public.

W B Smith testimony

.....

.....

Ms d 1160 Box 1 fd 5

depositions this day, by agreement of the parties thereto
the further taking of the same is continued by the
Notary Public until Monday the 8th day of February, 1892
at the hour of 9.30 oclock A. M. then and there to be
continued at the place aforesaid.
Now on this 8th day of February 1892 at the hour of 9.30
o'clock, A. M. come the parties herein as hereinbefore
stated, and the further taking of the depositions herein
was continued, pursuant to adjournment.
W. W. Blair, of lawful age, being produced, sworn and examined
on the part of the plaintiff, deposeth and sayeth as follows
to-wit.-

I Q:-What is your name? A:-W. W. Blair.
2 Q:-Mr. Blair, where do you live? A:-At the present time
at Lamoni, Iowa.
3 Q:-How long have you lived there? A:-Since August 1884.
4 Q:-What is your business? A:-I am editor of the Herald,-
one of the editors of the Herald, and mihisterially
associated with Joseph Smith.

5 Q:-Who is Joseph Smith? A:-He is the president of the re-organized church of Jesus Christ of Latter Day Saints
6 Q:-How long have you been connected with the church? A:-The re-organized church?
7 Q:-Yes,sir. A:-Formally since the spring of I857.
8 Q:-What do you mean by "formally",-when you say you have been a member of the re-organized church formally since I857 what do you mean? A:-I mean that I united with the church then,-that is,I formally became a member of the church at that time.
9 Q:-What position did you hold in the church then? A:-I was ordained an elder at that time.
I0 Q:-By whom? A:-Zenas H. Gurley and others.
II Q:-When was that? A:-In the spring of I857.
I2 Q:-What did you after I857 in connection with the church and from that on up,-generally or in a general way of course? A:-Well,I did not take any very active part in affairs,or in connection with the church except at the time of conferences,but I did some ministerial work in the church. Not a great deal,however,-until the spring of I859,and at that time I became a member of the quorum of twelve. I think it was in the fall that I received my ordination,however,as to that the record will show when it was.,but I became an active member in the ministry and in the quorum of twelve from the month of April,-from the first of April or along during the first days of April in I857,and continued right along in ministerial work throughout the states of Wisconsin Iowa,Illinois and over on the eastern edge of Nebraska during that year. Afterward I passed across going east on a mission through northern Illihois and Indiana and Ohio on to Pennsylvania,Virginia,West Virginia,and so continued on during a number of years engaged in ministerial work throughout the ~~year~~ eastern,middle and western states until I873. I was during that time engaged in the eastern and middle states,and the western states too and then after that I took a mission through the inter-mountain country,Utah,Idaho,Wyoming and montana,Nevada and California. So I continued until I873 at the spring conference I was selected as one of the first presidency and have been identified with the work of the church in that capacity ever since that time.
I3 Q:-Have you attended the general gatherings of the church since I857? A:- Yes,sir. Pretty generally,but not all of them. I have however,attended most of them but during a part of the time I was in the west and did not attend some of them.
I4 Q:-What time tas that? A:-From I857 to I860,-from '57 to '60. I think it is safe to say-that I was with the church at its general conferences,spring and fall with few exceptions.
I5 Q:-You say you were there generally speaking? A:-Yas,sir there was some few exceptions but I was generally there
I6 Q:-Were you present at the general conferences of the re-organized church of I860 and '6I? A:-Yes,sir I was.
I7 Q:-Were you present at the conference at which Joseph Smith was ordained President of the church? A:-Yes,sir I was at that conference.
I8 Q:-Will you state to the reporter what the details of that was? A:-Of the conference?
I9 Q:-Yes,sir? A:-Well,do you mean in respect to his nomination and ordination?
20 Q:-Yes,sir,-nomination,ordination and all? A:-Mr.Smith came on the fifth,and on the sixth at the ~~ordination~~ organization of the conference

Elder Zenus H.Gurley,senior,was chosen as the presiding officer and it was known that Mr. Smith was present and wanted to address the body of the people present. He was invited to do so and made an address,and in that address he stated that for ~~four~~ years,-some years past,-his mind had been enlightened in respect to the work of the church and that it had been signified to him that he should become identified with the church. He stated also that he had been solicited by various factions of the church to unite with them as the presiding officer over their respective organizations,but he had declined doing it,saying he answered one and all that he would never have anything to do with the work of the church,and especially with the work of the Presidency unless he was called of God,-unles he was consious that he had a call. The very words he used I think are found now in the address he had printed, or I should say his address as printed "unless he should receive a call from his Heavenly Father". I think those were the words he used in expressing himself. At the close of his address a motion was made that he be received into the church to be its president. This motion was seconded and put to the meeting and passed,and then he was ordained to the high priesthood. He was ordained to the office of high priest by the usual formula of ordination. He was ordained under the hands of William Marks,Samuel Powers and myself.

21 Q:-TO what office was he ordained at that time before the office of high priest? A:-Well,I can only say that the ordination ceremony practiced at that time by us was the ordination ceremony as we understood it to be,and as to the words that were used in the process of conferring ordination I cannot say. I would undertake to say as to the wording of the ordination,for I do not remember. I could not determine verbally what it was,-that is to give the exact language,or what was uttered at his ordination, ~~for I do not remember~~ and confirmation,but the usual formula peculiar to the church in ordinations was followed.

22 Q:-Do you know,Mr. Blair,about the ordination being in conformity with the rule laid down in the book of doctrine and covenants? A:-Well,we made that a rule in our faith and practices,-that was a matter adopted away back in the baginning when I first became identified with the church.

23 Q:-What was the rule to which you refer? A:-That whatever was done should be done strictly in conformity with the law and order of the church as contained in the rules and law of the church.

24 Q:-When was that determination or rule adopted? A:-It was away back at the time that I became identified with the church,-in fact from the time that we first came together and effected the re-organization. That was my understanding all the time and everything that I saw done was done strictly in accordance with the laws and rules of the church.

25 Q:-Do you know whether the President of the Conference at the time of the ordination,had the book of doctrine and covenants in his hand? A:-Well,I would not say as to that. Excuse me,I said there was but William Marks, Samuel Powers and myself,but I was mistaken in that statement,for Zenas H. Gurley was one of the ordaining committee.

26 Q:-And you do not recollect about the book of doctrine and covenants? A,-No sir,I do not. We were familiar with it at that time for it had been a question with us,and a very serious question as to the government of the church up to that time,for we understood that the Utah people and others of other factions of the church

had gone on at will and had paid but little respect to the formulas of the church,-that is to the law and order of the church,and as a consequance we made a specialty from the time of my first acquaintance with the ~~church~~ re-organized church in having everything done in strict conformity with the laws and established rules and formulas of the church.

27 Q:-At that time,if I understand you,Mr.Blair,you held the office of an apostle? A:-Yes,sir.

28 Q:-When was that? A:-That was in 1860 at the time of the ordination of Joseph Smith.

29 Q:-Well now was Joseph Smith ordained an apostle at that time? A:-Well,we supposed it comprised that.

30 Q:-well do you know that he was ordained an apostle at that time A:-well,as I have stated,we supposed it comprised that,but I do not remember at that time that the words were uttered,-I could not say whether the words were uttered or not. I would not say that the words indicating that he was ordained an apostle were uttered at that time,but the ceremony that was performed we all understood at the time that was included. That was the understanding and intention that he was ordained strictly in accordance and in conformity with the rules and usages of the church as laid down in the book of doctrine and covenants.

31 Q:-Are you acquainted with the doctrines of the original church? A:-As laid down in the history and the standard works or books of the church,I may say that I am I may say that I am,for I had some occasion to study it pretty thoroughly and pretty critically from 1851 up to 1860

32 Q:-And are you familiar with the doctrines and tenets of the re-organized church? A:-Yes,sir.

33 Q:-I will get you to state,Mr.Blair,what differences there are,if any,in the doctrine as laid down by the original church,and the doctrines as laid down and practiced by the re-organized church of which you are now a member? A:-The difference between the doctrine of the original church and the church,-the re-organized church of Jesus Christ of Latter Day Saints?

34 Q:-Yes,sir? A:-Well sir,as contained in the standard books of the church we have claimed,and now claim that the re-organized church of Jesus Christ of Latter Day Saints and the original church,that the doctrines ~~and~~ are identical. We claim that they are identical in the re-organized church with the doctrines taught in the original church.

35 Q:-I will get you to state,Mr.Blair,the position of the original church on the question of baptism for the dead if it had any such a doctrine?

By Mr. Southern,-I will object to that question on the ground that there is better testimony available than any opinion the witness may give,and that this testimony is testimony that ought to be produced here. I object to the question on that ground."

A:-In respect to what,sir?

36 Q:-I asked you to state the position of the original church upon the question of baptism for the dead? That was the question I asked you. A:-From reading the history of the church and from the teachings in the book of doctrine and covenants in all the editions published by the old original church at Nauvoo.,from these sources I gather that the doctrine was one had in the church,for I find an ordinance in the church organ advocating it,but whether,or as to whether it had ever become a pronounced doctrine,-that is to say,whether it had been accepted formally at any time I cannot say

from my readings. The revelation of I84I contained in the book of doctrine and covenants provides for the baptism of the dead,and that of course is a revelation accepted by them,and formed a part of the body of the revelations accepted as a rule of faith and practice from I84I down. That is found in all the editions published after that date and of course formed a part of the faith and practice of the church from that time on.

37 Q:-Is that the same principle that is set forth in the new testament in relation to baptism for the dead?

By Mr.Southern,-I object to that question on the same ground that I object to the former question because it is calling for an opinion of the witness when there is better evidence available than anything the witness can say about it.

A:-Yes,sir,I so take it to be the same.

38 Q:-And you may cite any passages in the authorized version of the bible,any passages that bear on it,-that is that specially bear on that principle? A:-I understand the doctrine of baptism for the dead as taught in the book of doctrine and covenants,and in the various articles we find in the church organ,is identical with what is set forth in the fifteenth chapter of first Corinthians in the New Testament and in the general epistle of Peter speaking by Christ "to the spirits of the dead". Indeed those passages of scripture were quoted in many of the articles in the church organ in the articles published. We find them in the ~~church~~ Times and Seasons which was the church organ.

39 Q:-Now I will ask you,Mr.Blair,what the position of the re-organized church is with reference to that question? A:-In what way?

40 Q:-With reference to that question as a principle of faith or practice? A:-We have adopted from the start, as I told you,the book of doctrine and covenants,-and the various issues or editions of that book printed and published at Nauvoo,and they as I have before stated,embrace the doctrine of baptism for the dead,-both in the letters by President Smith and in the revelation given in I84I,-likewise in what is called "the vision". It is provided there,speaking to the spirits in prison, which involves as we understand it,the administration of baptism for the dead.

4I Q:-Is that all there is in the way of revelation referring to the subject of baptism for the dead? A:-There is another revelation in the book of covenants,-I cannot at this time recall the number of it,that contemplates the same thing,in connection with the vision.

42 Q:-I will ask you,Mr.Blair,if it is not a fact that the re-organized church,either at the last assembly, or at some other and prior assembly or conference placed that question among the mooted questions of doctrine?

By Mr.Southern,-"I object to that question because of its indefiniteness. That question is too indefinite and I object to it for that reason".

A:-Well,so far as teaching it at present is concerned it has been for the reason,-

By Mr.Southern,-

43 Q:-For what reason? A:-It has been ruled out from the present teaching and practice for the reason that there is no authority for administering it,or in relation to the administration of it. We hold and we so understand the teaching of it that it can never be administered unless it is by especial and direct commandment and unless provisions are made for its administration by special commandment and we do not

understand that has been given.
44 Q:-I do not understand that? A:-Well if you will give me time perhaps I may explain it so you will see the force of my answer.
45 Q:-Well,I would like you to do so? A:-Well we believe that the soul of man is consious after death,and possessing the will power peculiar to the mind in this life,and that in that condition the gospel may be preached with the redemption plan in Christ,and they are left at will to accept or reject,and that when they accept that plan of redemption in Christ Jesus,we claim that baptism for the dead is proper,and that other persons by substitution can receive the outward ordinance for the benefit of those who have passed ~~into~~ into the spirit state. We claim that this can be done by substitutionary work.
46 Q:-That is the way that was? A:-Yes,sir,that is the way we understand it.
By Mr.Kelley.-
49 Q:- Then if I understand you,you mean by your answer, that the re-organized church of Jesus Christ of Latter Day Saints hold that simply as a principle up for the present,-the principle is taught in the New Testament and so far as the reorganized church is concerned it \$ is not taught at the present time,but is simply one of the questions that is held in abeyance for the present for future consideration,and is not taught or practiced in any form? A:-Yes,sir,we simply regard it,-
50 Q:-I mean it is not practiced in any form? A:- No sir, we do not practice it at the present time.
51 Q:-Has the re-organized church ever practiced it? A:-No sir,not to my knowledge.
52 Q:-Why not? A:-Simply because it is impracticable under the present conditions.
53 Q:-I hand you now Mr.Blair,the book marked Exhibit two and ask you to state to the reporter what book it is? A:-The Latter Day Saints Messenger and Advocate,volume one and ~~number two~~ volume two,both bound in one volume or book.
54 Q:-Where was it published? A:-It was printed and published at Kirtland,Ohio in 1834 to 1836,-running through both those years.
55 Q:-I will ask you if that was an authorized publication of the original church? A:-Yes,sir. We understand it that way sir. We understand that it was an authorized publication of the original church.
56 Q:-You may point out Mr.Blair,and read from the book marked Exhibit two,any and all quotations therein with reference to the name of the church.
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is too indefinite. A:-Well I find so far as the mere form of the name is concerned in this record,Exhibit two,the church is variously called,interchangably called I may say,-"The Church of Christ," "The Church of Latter Day Saints," "The Church of the Latter Day Saints," "The Church of Jesus Christ of Latter Day Saints" and I think perhaps one or two other names are used,so far as the mere verbiage of the form of the title is concerned.
By Mr.Southern,-Well I object to that answer if that is the end of the answer. How is that? Is that the end of the answer? If it is I have an objection to make to it,and if not I will not make my objection until you complete it,but will wait until you complete your answer to finish it.
By Mr.Kelley,-I suppose he will finish his answer Colonel if you will give him time.

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44 Q:-I do not understand that? A:-Well if you will give me time perhaps I may explain it so you will see the force of my answer.
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By Mr.Kelley,-I suppose he will finish his answer Colonel if you will give him time.

A:-No sir,I have not finished. On April 3rd 1885 on page 101,it is denominated "The Church of Latter Day Saints" and the same form of designation occurs again on page one hundred and twenty two "The Church of the Latter Day Saints",-the definative article "the" occurs in ~~th~~ that designation of the name of the church. It is introduced-there in contradistinction,as it were,from "The Church of Latter Day Saints." On page two hundred and six the form is used interchangably,used here right on one column "The Church of Christ of Latter Day Saints" and then follows in another paragraph "The Church of Latter Day Ssints". On page one hundred and sixty one the form used is "The Church of the Latter Day Saints" and on page two hundred and eighty seven the form used is "The Church of Christ of Latter Day Saints".

By Mr.Southern,-

~~Q:-~~

57 Q:-What is the date of that? A:-March 1886.

By Mr.Kelley,-

58 Q:-Are there any more? A:-Yes,sir.

59 Q:-Well what are they? A:-On page three hundred and thirty-five is a record made of the names of the ministry,and the form here used is "The Church of the Latter Day Saints". That reference is made in respect to the issuance of licenses. On page three hundred and fifty nine (this would also be in 1886) the form used is "The Church of Latter Day Saints". I believe that is all that I have been able to find. There may be others in the book but I believe that is all I can find at this time so far as I have examined the book.

By Mr.Southern,-"Then I will make my objection. I object to the answer of the witness because he refers to pages of a book without showing what those pages contain,or what authority,if any,in reference to the name or title of the church,those pages contain with reference to the matters in controversy,and for these reasons I ask that the answer be stricken out."

By Mr.Kelley,-

60 Q:-Mr.Blair I will ask whether or not the pages of the book to which you have been referring are the pages in a book that has been identified here as exhibit number two this morning? A:-Yes,sir.

61 Q:-Is it the same book? A:-Yes,sir.

62 Q:-What is the book? A:-The Messenger and Advocate".

63 Q:-That is the book marked exhibit two? A:-Yes,sir.

64 Q:-I will ask you Mr.Blair,if you are acquainted with the doctrine and teachings of the church known as the "Salt Lake church"? A:-Why,yes,sir.

65 Q:-Yes,sir,-are you,-you say you are acquainted with the doctrines and teachings of the faction of the church that is located in Utah and known as the "Salt Lake church"or the "Utah church"? A:-Yes,sir,I am acquainted with their doctrine and teachings as published. Their published teachings I am familiar with.

66 Q:-Are you familiar with,or acquainted with the doctrine and teachings of any other factions of the church A:-Yes,sir,to some extent. I have examined the claims or pretentions of what are called the "Strangites" the "Bickertonites" the "Hedrickites" the Morrisites" the "Rigdonites" and possibly some others,-but those I have mentioned I have investigated.

BY Mr.Southern,-

67 Q:-And the "William Smithites"? A:-Yes,sir,and possibly some other factions also.

By Mr.Kelley,-

68 Q:-I will ask you to state Mr Blair,whether or not

what is known as the Salt Lake mormon church,is in harmony with the doctrines and teachings of the original church of Jesus Christ of Latter Day Saints? A:-~~We~~ Whether or not their-doctrines and teachings is in harmony with the doctrines and teachings of the original church?

69 Q:-Yes,sir.

BY Mr.Southern.-I object to that question because it has nothing to do with any of the issues in this case, and asks for an opinion of the witness."

A:-No sir.

By Mr.Kelley.-

70 Q:-They are not in harmony with the doctrines and teachings as taught by the original church? A:-No sir.

7I Q:-What are the differences,if any? A:-They teach the doctrine of plural marriage contrary to the doctrine of the original church and the re-organized church,as as contained in the church organs. That is to say,the Times and Seasons,-the Morning and Evening Star and the Messenger and Advocate,and also contrary to the teachings of the BOOK of Mormon and also contrary to the teachings and commandments of the book of doctrine and covenants.

72 Q:-What about the bible? A:-And also contrary to our construction of the bible,or rather what we understand to be the teachings of the bible.

73 Q:-What other differences are there? What difference is there in respect or in relation,-? A:-In what respect?

74 Q:-In regard to the principal points of doctrine? A:-Well the Utah Mormons through the president of their church,as we find recorded in the Deseret News,and in the Journal of Discourses,taught the doctrine that Adam was the Father,-or rather that Adam was our Father and God,and the only God with whom we have to do,and this teaching we regard as being rankly heretical and contrary to all the teachings of the bible,the book of Mormon,the book of covenants,and the teachings set forth in these church organs in their time. Likewise in respect to church government. The Utah Mormon church in 1844 at the death of Joseph Smith,assumed that the twelve constituted and took the place of the first presidency and assumed to dictate as to the first presidency,In the place of the first presidency,and assumed that there would be no further first presidency for the church,and assumed that all the authority,rights and powers that appertained to the first presidency became vested in them. In the teachings of the book of covenants,the quorum of twelve and the first presidency are distinct,-the quorum of twelve to officiate under the direction of the first presidency,or the immediate counsel of the first presidency and their ministerial labors pertaining to the work of the church abroad amongst the branches,and in the various parts of the world,and that therefore they had not authority to interfere in the affairs at the Stakes,-had no right,-no presidency there,-nor in the councils that were held in the church.

By Mr.E.L.Kelley,-

75 Q:-All that we care about is the principle of doctrine, We do not care anything about the usages? That is something we do not care about? A:-We regard that action of the Utah Church,as it is commonly called,as an usurpation of authority,which began immediately after the death of Joseph Smith,in June 1844,and we claim ~~th~~ that in respect to the bishopric,-their dealings,dominating,if you please to call it such,-the bishopric,-appointing and ordaining bishops,and controlling the financial concerns of the church was one evidence of usurpation,-or rather one of the distinctive features of their usurpation,and still another In respect to

marriage,the claim is made by them that marriages not performed by their ministry are not strictly proper marriages,and they have used that influence,as we are well aware,to prevent marriages occurring except under the direction and administration of their ministry,- going indeed so far as to absolutely prohibit it.

By Mr.Kelley,-

76 Q:-What is the manner of transacting business in the conference? A:-Well,judging from what we read and from what I have seen,-

By Mr.Southern,-"Hold on a moment. That question is objected to because it is evident that there is better testimony than the statement of this witness,and be- it is not relevant to the issues of this case,or to any of them".

By Mr.Kelley,-

77 Q:-You may proceed and state what you know about it,- what you have seen yourself? A:-In my acquaintance with their administration in Utah it is a system of suggestion,and apparently on the part of the leading men of the church,and the people are asked to sustain those suggestions by vote,-the nominations are always, so far as I have been able to discover,presented by the leading men and the people are asked to sustain them by their vote. We regard that practice as a sort of a machine institution,with all the matters provided for beforehand. That is the way it looked to us out there.

By Mr.Southern,-"The answer is objected and motion made to strike it out because the witness is not competent to answer it,and has not proven himself by his testi-. mony so far as given to be competent to testify in this regard,and it is objected to on the furfher ground that there is better testimony."

By Mr.Kelley,-

78 Q:-You may state any other particular doctrine or doctrines in the Utah church,or that is taught by the Utah Mormons,that were not taught by the original church ,and which are not authorized by the books of doctrine of the old church?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons ~~th~~ that the witness is not competent to answer the question propounded to him,and on the further ground that there is better evidence of the fact sought to be proven than any statement that the witness can make.

A:-From the investigation I have made of their system from an early time,-probably as early as 1845,I am led to believe,-

79 Q:-I do not want you to state what you believe,or what you think,Mr.Blair,but to state what you know? A:-well I gather from treir writings as published in their church organ that their ministry,-their leading ministry proposed it,-and it dominated the people in regard to political and civil affairs,contrary to the order and principles set forth in the sacred standard books of the church.

80 Q:-I will ask you if you were present at the conference held in Michigan,-or-rather in Wisconsin in 1857?

A:-Yes sir.

81 Q:-What time was that conference held? A:-It was either in the spring or in the fall of 1857. If my memory serves me right it was in the fall that that conference was held,and I was there.

82 Q:-I notice,Mr.Blair,on the minutes of that conference of 1857 the names of Hedrick and others,-Hedrick and Owens it is,and the statement appears in the minutes that the hand of fellowship was given to Hedrick and Owens? A:-Yes sir.

83 Q:-That is correct? A:-Yes sir.

84 Q:- Hedrick and Owens were present and the hand of fellowship was given them? A:-Yes sir.
85 Q:-I will get you to state who that Hedrick was? ~~A:~~
A:-That was Granville Hedrick.
86 Q:-Who was the Owens? A:-I really do not remember what his first name was.
87 Q:-You do not recollect what his first name was,you say? That is,what Owens first name was? A:-No sir,I cannot recollect it distinctly,but it seems to me it was William,but as to that I would not be positive. ~~H~~ He was quite an elderly man at that time,and I never met him but twice,I believe.
88 Q:-When did you meet Granville Hedrick first? A:-I met met Granville Hedrick first in Woodford county,and afterwards I met him at Washburne,-yes,that was the name of the place. It has been so long ago since these events transpired that it is a little difficult for me to remember the names of places and of people. Hedrick resided ther at Washburne or near there at that time, and he rode with me in a carriage from Amboy to Blanchardville in Wisconsin in the fall of 1857,-I think that is the correct date,-a distance of about eighty or ninety miles.
89 Q:-Did he unite with the conference that time he was there? A:-He took part in the conference,-both he and Owens took part in it. The right hand of fellowship was extended to them,and Mr.Hedrick according to the best of my recollection now seconded,-moved a resolution which was seconded by Mr. Owens to the effect that the conference send a delegation down to Bloomington,Illinois,and MAckinaw,Illinois,and other points near there,where they had some membership,-or where there was some membership of their organization,-for ~~t~~ they had a temporary organization only,as I understand it. The conference was requested to these people to reason and talk with them,and to preach to the people at these places and explain to them our views in regard to church doctrine and church government,and I well remember an expression made by Mr.Hedrick at the time when the matter was suggested "well" said he "you had better look after them among your own acquaintances" and he said "no,we prefer that you send a delegation ~~w~~ who are instructed and who are well posted,and who will be able to present thoroughly and fully your views,and your position in regard to the doctrine."
90 Q:-Who said that? A:-Mr.Hedrick.
91 Q:-What was the occasion of his saying that? A:-He ~~said~~ said that when it was suggested that they had better look after their own people. They were there at the conference and knew our position,and it was suggested that they could look after their own people,and i remember distinctly that was the reply he made.
92 Q:-I will get you to examine page thirty seven of the book here-to-fore identified as exhibit N,and say whether or not that is the minutes of the conference ~~t~~ to which you refer in your answer to the last question
A:-Yes sir.
93 Q:-who was the clerk of that conference? A:-I was the clerk of that conference. It was held October 6th 1867 at a place called Farahemla. The post office was called Blanchardville,-that was the name of the post office.
94 Q:-Now I offer from page thirty seven of exhibit N,the following,-"Upon motion brothers Owen and Hedrick were received as representatives of the saints in Woodford County,Illinois and vicinity,and the right hand of followship was given them"
95 Q:-Mr.Blair,in your examination this morning you referred to the question of a bishop? A:-Yes sir.

96 Q:-Both in the re-organized church and the church at the church at Salt Lake. Now with reference to that question In will ask you,or I will get you to read to the reporter paragraph three of section sixty one of the book of doctrine and covenants,the edition of 1835,marked exhibit E? A:-And again,it is meet that my servant Joseph Smith,Junior,should have a house built in which to live and translate. And again it is meet that my servant Sydney Rigdon should,as seemeth him good,inasmuch-as he keepeth my commandments. And again I have called my servant Edward Partridge and given a commandment that he should be appointed by ~~to~~ the voice of the church,and ordained a bishop unto the church,to leave his merchandise and spend all his time in the labors of the church:to see to all things as it shall be appointed unto him,in my laws in the day-that I shall give them. And this because his heart is pure before me,for he is like unto Nathaniel of old,in whom there is no guile.- These words are given unto you,and they are pure before me:wherefore beware how you hold them,for they are to be answered upon your souls in the day of judjment:even so.-amen.

97 Q:-What is the date of that revelation? A:-February 1831

98 Q:-I will got you to read in connection with that Mr. Blair,paragraph ten,section twenty of exhibit E? A:-"Let my servant Titus Billings,who has the care thereof,dispose of the land,tnat he may be prepared in the coming spring,to take his journey up into the land of Zion,with those that dwell upon the face thereof,excepting those whom I shall reserve unto myself,that shall not go until I shall command them. And let all the moneys which can be spared,it matteretn not unto me whether it be little or much,sent up unto the land of Zion,unto them whom I have appointed to receive."

99 Q:-What is the date of that? A:-That is August 1831, the August following the other one.

100 Q:-Well,that is all. You can cross examine.
Cross examination by Mr.Southern.

101 Q:-Your name is W.W.Blair? A:-Yes sir.

102 Q:-And I believe you stated you were counsellor to the president of the Re-organized church? A:-Yes sir

103 Q:-And the president of the Re-organized church I believe you stated was Joseph Smith? A:-Yes sir.

104 Q:-The Joseph Smith whose deposition wastaken here a few days ago? A:-Yas sir,so I understand. I was not here,but I understand his testimony was taken.

105 Q:-Of course you have priority amongst the counsellors? A:-Yes sir.

106 Q:-What does that mean,-priority amongst the counselors,what does that mean? A:-Just when the quorum is composed of three the first counsellor ~~has pri ori~~ holds priority.

107 Q:-What are his duties? A:-The duties of the first counselor?

108 Q:-Yes sir? A:-To advise with the president of the church in relation to all the affairs pertaining to the church,-or rather in respect to all the matters and things pertaining to the presidency.

109 Q:-To what does the presidency pertain? A:-It is to preside over the conference of the church. To preside over the church as a body,-to counsel and direct in connection with his counselors,subject to the quorum of twelve in their administration.

110 Q:-What are his powers in the re-organized church? A:-Aside from methods simply of procedure?

111 Q:-Yes sir,what are his powers? A:-well,so far as gifts,rights and powers is concerned,it is to be a revelator to the church,-a translator and seer. Those are the rights and powers that pertain

[12 Q:-These are the duties and functions and powers of the President of the church? A:-Yes sir.
[13 Q:-To be a revelator,translator and seer to the church A:-Yes sir.
[14 Q:-What other,if any,duties or rights pertain to him A:-To exercise the gift of prophecy as the presiding prophet of the church. Those are prerogatives of course that pertain to the first presidency,-the first president of course having priority,-that is in respect to ordaining bishops. That is one of the provisions made in the law of the church.
[15 Q:-How is the first Presidency,-what powers do the Conference have? A:-Well there are a variety of matters that are referred to the conferences by the ministry in regard to such matters as missions,in regard to finances,-the finances of the church,and they hold authority likewise in respect of approving or disapproving those who may be nominated or called of an revelation to specific offices. Conferences hold the right to pass on those questions,and conferences also hold the right,when fully organized,of saying whether or not the church was to receive or endorse what purports to be revelation from God.
[16 Q:-Those are rights that the conference have? A:-Yes sir.
[17 Q:-How long,-for how long a time,have conferences in the re-organized church exercised that right? A:-Well from the very first,so far as I know. So far as I am aware of they have always exercised that right and the first conference of which we have any account or record exercised that right. I believe at the first conference that was held that matter came up in effect on a resolution to endorse the bible,the book of Mormon,the book of doctrine and covenants as containing the laws of the church. That was done in [885,and at other times prior to [844,and it was carrying out the same general principle,and it was so understood at the time,and has been so understood by the church. We see it exemplified in the case of Mr.Smith,for when he came before the church or the conference acting in its representative capacity and stated that he had received a direct call or revelation from God ~~th~~ that he was to act in the capacity of President of the church,the conference passed on that question,-or rather the quorums of the church that were present, that is the ministry,and the entire body of the people acted upon it and approved of it. They endorsed it,and so far as I am conscious of the facts,all the revelations that were ever given to the church for its government,were presented to them and accepted by the voice of the body.
[18 Q:-How do officers obtain authority in the re-organized church? A:-Sometimes by nomination and appointment by the body,and then by being set apart under the hands of competent ministry,-those having jurisdiction in the case,and then receiving license by the voice of the body.
[19 Q:-How does succession come in the office in the event of death or vacancy in an office? A:-Sometimes it comes by some direct endowment of the Spirit,and sometimes by nomination,-yes,you may say by nomination from some body of the ministry.
[20 Q:-Then if any one testifies that succession uniformly follows to an office in the re-organized church to the oldest son of the decedent,he does not state the position of the re-organized church correctly does he? A:-So far as the office of the first president of the church is concerned,-the presiding office,-it is in harmony with the history of the precedents we find in thr book of Mormon,and what we

find in the New Testament scriptures,as well as in the old testament,and in harmony with the doctrine in the book of doctrine and covenants,that that office will or may descend by lineage.

I21 Q:-Then if any one testifies that it is the uniform law of the church that it does not descend by lineage to the oldest son he is mistaken,is he not? A:-No,sir

I22 Q:-He is not? A:-No sir. In order however that that shall be effective,-that that right,-the right of lineage should be effective and made applicable to the individual he must be called directly by revelation from God. He must be called by a direct revelation from God.

I23 Q:-Does that revelation apply to the first presidency? A:-Yes sir.

I24 Q:-It refers to the first presidency? A:-Yes sir.

I25 Q:-Does it refer to the apostles? A:-Not necessarily No sir,not necessarily.

I26 Q:-Then if any one testifies that it refers to the twelve apostles he is,to say the least,mistaken?

Counsel for the plaintiff objects to the question for the reason and on the ground that the same is incompetent and not cross-examination.

A:-We understand that it relates directly to the first presidency of the church.

I27 Q:-Well if any one testified here that it refers to the twelve apostles,he is mistaken? Is that not the fact? A:-Well I could only give it as my opinion,for the church has taken no action on it that I am aware of.

Counsel for the plaintiff objects to the answer of the witness,and moves the court to strike same from the record on the ground that it is incompetent and irrelevant and not responsive to the question.

I28 Q:-What is that? A:-There is no action or rule of the church that I am aware of that has been adopted which shows that anything was done on that point.

I29 Q:-Well if I am not mistaken you do not say that if any one has testified here that that section and rule applies to the action of the church on the question of succession by lineage or descent he has misrepresented the position of the church on that question? What is your answer to that? A:-I am not aware that the church has any position on that point. It has never been ruled on to my knowledge.

I30 Q:-That is the re-organized church has never passed on it? A:-No sir,not to my knowledge.

I31 Q:-And does not the same principle apply to the first presidency? A:-Yes sir.

I32 Q:-Have they,-the church,-ever ruled on that? A:-Yes sir. They ruled on that. It was a matter or question that was agitated as near as I can remember about '51. It was a matter that was agitated soon after 1851 and the question was settled in accordance with the precedents that obtained in the book of Mormon and the bible,-especially the book of Mormon upon the precedents and usages that obtained there and likewise in the book of covenants,the special provisions that are made there for it records in so many words that that priesthood descended from father to son,and points out the instances where it so descended.

I33 Q:-What priesthood do you refer to? A:-The Melchise-

dek priesthood.

I34 Q:-Does not the same authority to inherit the office of the father descend to the son,-the eldest son,as applied to the other officers of the church? A:-How is that?

I35 Q:-Does not the same authority descend to the other officers? A:-Well I say that the church has never ruled on that point. That question has never been raised in the conferences of the church that I am aware of.

I36 Q:-Then I understand you to say,that so far as the first presidency is concerned,that lineality of descent is a law of the church? A:-Yes sir. I do not say that it is exactly a law of the church,but it is a recognized rule of the church.

I37 Q:-Well now I will ask you to state more distinctly what that rule is? A:-It is a rule that in the event of a first President of the church dying,that his eldest son,if he has one,has a lineal right,-what we designate a lineal right to the office of his father although he may not be prepared at the time to enter upon the duties of his office: though were he called to take upon himself the duties of the office he could do so,provided he was of suitable age,and such other conditions as must be complied with are present before he can enter upon the duties of the office.

I38 Q:-What are those conditions? A:-Although he is the eldest son of the deceased president of the church, yet those other conditions must prevail,that he must be of suitable age,etc,and first of all he must be specially called to the office by a revelation commanding him to take upon himself the duties of the office,and this revelation must be of such a character as to satisfy the church that the call is from God. That is the view entertained from the first,and which is entertained now so far as I am aware.

I38 Q:-Very well. Now does that apply to any particular son? A:-Yes sir.

I39 Q:-Which one? A:-The elder son.

I40 Q:-In every case? A:-Yes sir,provided he is competent and the conditions surrounding his call are acceptable,the elder son has what is called the birthright.

I4I Q:-That is the lineal birthright? A:-Yes sir.

I42 Q:-Does any other son have it? A:-No,not so long as the first and eldest son is alive. The conditions affecting him,such as to his competency of mind,etc, attaches first to the eldest son.

I43 Q:-How would it be in case the first son had all the conditions and qualifications you speak of to succeed to the first presidency of the church,and he dies before his father? A:-In that case so far as the right itself is concerned it would devolve upon the next son.

I44 Q:-Is that the law of the church on that question? A:-That is what we understand to be the law,and in harmony with these precedents.

I45 Q:-Now you say that is the law and it is established upon precedents? A:-Yes sir.

I46 Q:-Where are these precedents to be found? A:- You will find it in the book of covenants.

I47 Q:-Where in the book of covenants is it to be found? A:-In section one hundred and four,paragraph eighteen ,page two hundred and ninety three of Exhibit J.

I48 Q:-Well read it? A:-The order of this priesthood was confirmed to be handed down from father to son,and rightly belongs to the literal descendants of the chosen seed,to whom the promises were made. This order was instituted in the days of Adam,and came down by lineage in the following manner. From Adam to

Seth who was ordained by Adam at the age of sixty-nine years,and was blessed by him three years previous to his (Adams) death,and received the promise of God by his father,that his posterity should be chosen of the Lord,and that they should be preserved until the end of the earth,because he (Seth) was a perfect man,and his likeness was the express likeness of his father,insomuch that he seemed to be like his father in all things,and could be distinguished from him only by his age." Then follows a long list of succession which I suppose it is not necessary for me to read. The quotation I have given above includes paragraphs eighteen and nineteen of section one hundred and four,and is found on page two hundred and ninety three. Following these paragraphs there is more or less in relation to the same subject,all the way down to the twenty eighth paragraph. Now there is another passage that you will find in section one hundred and seven,paragraph eighteen,on page three hundred and seven of the same Exhibit,which is as follows,-"And now I say unto you,as pertaining to my boarding house which I have commanded you to build, for the boarding of strangers ("that was a joint stock affair") let it be built unto my name and let my name be named upon it,and let my servant Joseph and his house have place therein from generation for this anointing have I put upon his head,that his blessing shall be put upon the head of his posterity after him:and as I said unto Abraham concerning the kindreds of the earth even so I say unto my servant Joseph,in thee and in thy seed shall the kindreds of the earth be blessed. Therefore let my servant Joseph and his seed after him have place in that house from generation to generation,forever and ever,saith the Lord,and let the name of that house be called the Nauvoo house;and let it be a delightful habitation for man,and a resting place for the weary traveler that he may contemplate the glory of Zion,and the glory of this the corner stone ~~of Zion~~ thereof;that he may receive also the counsel from those whom I have set to be as plants of renown,and as watchmen upon her walls." That is the paragraph. It says this anointing habe I put upon your head" That his blessing shall also be put upon the head of his posterity after him. That we understand to mean the ministerial blessing and to comprehend ~~,and~~ that the presidency of the church in prophetic office is confirmed.-"that his blessing shall also be put upon the head of his posterity after him". According to to the construction we put upon this,and we believe it to be correct,the head of his posterity is his eldest son.

I49 Q:-Is there anything in there that authorizes a transfer of that right from the eldest to the next son? A:-In case the eldest son dies the next son in point of lineage would then be the eldest son. That follows as a necessary consequence.

I50 Q:-Is not that simply a conclusion of yours from the reading? A:-I do not see it in that light.

I5I Q:-Well what else is it but a conclusion? A:-Well I understand the head of a man's posterity,if he has half a dozen sons,may be John today,and if John dies today,tomorrow it may be Thomas who is the next son ~~son~~ in point of succession. In case John was the eldest and he dies,as a natural consequence the next eldest is the head of his posterity.

I52 Q:-Do you understand that to be the rule laid down in this section you have read? A:- I understand it to be the law. It is the law of common sense.

I53 Q:-Now is this not the fact that if the eldest son dies having a son himself,it goes to that son? A:-Yes sir,but in this case we were speaking of

direct succession from father to son.

I54 Q:-Yes sir,-but is it not a fact that if the eldest son dies while the father is holding the office that instead of the lineal right descending to the next eldest brother of the son who died it passes to the eldest son of the son that died? A:-After this passes as a matter of course,-according to our understanding of it,-passes from a father to a son,that the authority develops in that son as a matter of course. If that son has a son,and the conditions all being favorable,according to the law that son inherits from his father,in the same manner as his father inherited from his father before him.

I55 Q:-Well,suppose the father dies before his functions ~~develop~~ devolve upon him,and there is a grandson,-a son of the eldest son of him that is in office,-would it go to his uncle or to him? A:-It never had gone into him. It never had gone into that line or branch.

I56 Q:-Then it goes back to the uncle in preference to the son of the first son? A:-Not to the uncle but to the son.

I57 Q:-If the father has never succeeded to the office that is rightly his by reason of his being the eldest son,and he has an elder son,and the father dies before the succession,then would the succession go to the father's brother,or to the first son?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial and for the reason that it is improper cross examination,and calls for an expression of opinion by the witness. A:-What is it you want?

I58 Q:-I want to know whether,as you understand the law, the succession goes to the oldest son only when the oldest son dies before the functions devolve upon him dead or to the eldest son of the eldest son?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is irrelevant,incompetent and immaterial and calls for an opinion of the witness.

A:-I understand that when an office passes from father to son,and has become developed in that son,and that individual dies,if he has a son,mark you,-if he has a son,and that son inherits from him,and not ~~only~~ only inherits from him but would be entitled to the office were the conditions favorable as I have already stated,and he was called by a revelation which the church had accepted as a revelation,the office which his father had filled. Now that would under these ~~ci~~ circumstances be the line of lineage down through which it would pass.

I59 Q:-The question I asked you is whether the the son of the father who is in the office,-that is the eldest son of the fathet who at the time is performing the functions of the priestly office in the first presidency,if the eldest son of that father should ~~d~~ die before he is called to fill the office or before the duties of that office devolve upon him,-if he dies while the father is still living,whether the functions of the office descend to the issue off that son,or whether it goes to the next son of the father in office,-to the brother next in line of succession to the deceased son?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial, not cross examination and calling for an opinion of the witness.

A:-It would not devolve on that son,as I understand it,until he received it. That is in case the father, the eldest son of the person holding the office,in case he died before his father,and never was ordained into the office would not have any right to confer the office upon his son.

I60 Q:-Well where would it go? A:-The law of lineage points to the fact that this priesthood descends from father to son,and the son so long as he is living is an heir to the office which his father held or holds,~~and~~ and of course until that soh dies it cannot descend to the next of lineage.

I61 Q:-But suppose he does die? A:-Suppose the son dies?

I62 Q:-Yes sir? A:-What son,-the elder son?

I63 Q:-Yes sir,that is the question,-suppose that son actually dies,and is an elder son? A:-If it is developed in the father of that son of course it cannot descend after him.

I64 Q:-Well what I want to get at is in an ecclesiastical case of descent like this,which would it develop in,-in the son of the eldest son,or in an uncle?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial and for the additional reason that it is not cross ~~I65~~ examination,and calls for an opinion of the witness.

I65 Q:-Which way would it go? I know in one case it would go to the uncle. Now you have testified that you know the law,history and doctrine of the church ,and I want you to tell me what is the law and doctrine on that subject? A:-The law is as I have told you,-simply that it goes from father to son. Now that is the law plain and square as contained in all the standard books of our church.

I66 Q:-Are you not trying to evade my questions,--are you not trying to answer them unfairly? A:-No sir I answer every question as openly and fully as I know how,and I am trying to conceal nothing. If I have failed to make you understand that is my misfortune for I know I have tried to do so hard enough.

I67 Q:-You say it descends from father to son? A:-Yes ~~sir~~ sir ,that is the law laid down in our standard books beyond question.

I68 Q:-Now then which son? A:-The eldest son.

I69 Q:-Why does it descend to the eldest son in preference to any other son? A:-Because the eldest son holds the birthright.

I70 Q:-Well Now suppose the eldest son dies before the office devolves upon him,and at the time of his death had an older son,does the office that the father,the man that died would have been entitled to,go to his eldest son?

By Mr.Kelley,-Colonel that question has been answered plainly and fully already,and I object to this way of going over and over again matter that has been already answered."

By Mr.Southern,-

I71 Q:-Answer the question? A:-I think I have answered it.

I72 Q:-Well answer it again,-I don't recollect of your answering that question,but it seems to me that you have answered every other conceivable question that bears indirectly on that point,and now I insist upon a direct answer? A:-The law of lineage does not provide for that as I am aware of sir,but it would descend simply from father to son,and if the son,I should say the father,-holds no office,as a matter of course it could not go to his son.

I73 Q:-Then suppose the father dies,and the elder son dies before the father,and then the father has another son,does it go to him under the law or rule of the church? A:-Why,in that event,-the son dying and

not having a son,why then as a matter of course it would follow down on e|of the other lines.

I74 Q:-Well now if he has a son,what then? A:-Well if he had a son it would develop in his son,so far as his right is concerned. The principle as I view it is a simple one,-it is simply a passing down from a father to his son,-not to somebody else's son. It simply passes down from father to son,and we claim this was the precedent established in the book of Mormon,and we can show a number of instances where beyond the possibillity of question that where there was a son it went from father to son,and is so provided for.

I75 Q:-Well that is what I understood. I have just one more question on this point and it is to ask you to explain a revelation which you have read here on page three hundred and six,I believe it is. A:-It is paragraph eighteen on page three hundred and seven

I76 Q:-Now then,what is the date of that revelation? A:-1841.

I77 Q:-Are there any other revelations since 1835? A:- A:-Yes sir.

I78 Q:-So that what you have been quoting from is a revelation delivered to whom? A:-To Joseph Smith.

I79 Q:-And it was delivered in the year 1841? A:-Yes sir

I80 Q:-Now was that revelation ever endorsed by the church? A:- I was not a member of the church at that time but the book of covenants in which it appears was endorsed as an entirety,and the re-organized church has re-endorsed it.

I81 Q:-Now then,Mr.Blair,I understood you to say in your examination in chief,that you were acquainted with the doctrine historically from its inception,and that you were and are acquainted with the doctrines of the re-organized church by personal knowledge and historically,and you are acquainted with the law governing both,and you are familiar with it and feel competent to testify with reference to these affairs A:-Yes sir.

I82 Q:-I understood that to be your position in your examination in chief? A:-Yes sir,that is what I stated to be my position as far as my knowledge went.

I83 Q:-As far as your knowledge went? A:-Yes sir,to the extent of my knowledge I stated that was my position

I83 Q:--Well did you not,-have you not been testifying under the theory that you understood the history of the church,-the doctrine and laws of the church? A:-Q:Yes sir,my knowledge and general understanding.

I84 Q:-From your knowledge and general understanding? A:-Yes sir.

I85 Q:-You do as a matter of fact understand the history of the church? A:-Yes sir,I believe I do.

I86 And you have arrived at your knowledge from your reading and the official position you occupy with relation to the church? A:- Yes sir.

I87 Q:-And you understand the doctrine of the church from the fact that you have carefully considered and studied it from the same situation? A:-Yes sir.

I88 Q:-And you understand the law of the church prior to the time you became a member of the church from your historical research,and you understand it personally since the time you have been a member of the church from your own knowledge? A:-Yes sir.

I89 Q:-These are the grounds on which hou base your knowledge of these matters? A:-Yes sir. Of course there is no other way of my arriving at a determination in connection with the original church,only from history and the authorized books of the church and what they teach,but since I have been a member of the church I have personal knowledge regarding what has taken place since then.

I90 Q:-Will you read now from your book of doctrine and covenants, Exhibit J. at page two hundred and ninety three, paragraph nineteen. Please read that section. A:-From Adam to Seth who was ordained by Adam at the age of sixty nine years and was blessed by him three years previous to his (Adams) death, and received the promise of God by his father, that his posterity should be chosen of the Lord, and that they should be preserved unto the end of the earth, because he (Seth) was a perfect man, and his likeness was the express likeness of his father, insomuch that he seemed to be like his father in all things, and could not be distinguished from him only by his age."

I91 Q:-Now you read in the fifth line of that paragraph" "should be the chosen of the Lord"? A:-Yes sir.

I92 Q:-Is that the language there? A:-Yes sir,-it seems that his posterity should be chosen of the Lord.

I93 Q:-Is there any "the" in that? A:-Shall be chosen of the Lord.

I94 Q:-Shall be T H E chosen of the Lord? A:-Shall be chosen of T H E Lord.

I95 Q:-Now is that in the line of lineal descent? A:-Yes sir.

I96 Q:-It is? A:-Yes sir. We understand it to be. We understand that Cain and Abel,-that Abel was slain by his brother Cain, and that Cain lost his right to the priesthood by his transgression, and that therefore it went to the next son, and that was Seth, and that the priestly line having been developed in Seth from Adam, it followed down along the line of Seth's posteriry.

I97 Q:-Then you understand that to promise that Seth's posterity should have a lineal right to the priesthood? A:-Yes sir, through that, for Seth was the chosen of the Lord.

That is the line of descent that we understand that the succession was to follow because of Cain's transgression.

I98 Q:-Was the promise made to any particular ones of his seed or to all of them? A:-I have no knowledge of that.

I99 Q:-Was Noah a descendant of Seth? A:-Yes sir.

200 Q:-He was? A:-Yes sir.

201 Q:-In what line? A:-He was a descendant in the lineal line.

202 Q:-Now sir, is it not a fact that Seth's posterity was cut off in the flood? A:-Seth's posterity?

203 Q:-Yes sir? A:-No sir. No sir, not that we are aware of. Not to the extent that they were annihilated,-but they might have been more or less cut off, but not to the point of annihilation.

204 Q:-Then is it a fact that after the flood there was or were any people living who were not antecedents of Seth?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent and irrelevant and immaterial and not cross examination.

A:-I really do not know sir.

205 Q:-Yet you say you know the bible authority on that subject? A:-I would not say as to that.

Counsel for the plaintiff objects to the question asked the witness for the reason that it is irrelevant and immaterial and is not proper cross examination.

206 Q:-You understand the bible narrative of that? A:-I understand that Noah and his sons were saved through

the flood,or saved from the flood,but I have no knowledge of any other ones.-that is, no knowledge from biblical sources.

207 Q:-Well in the biblical narrative to which you have referred is it not stated that after the flood all the people in the world were descendants of Noah?
Counsel for the plaintiff objects to the question asked the witness for the reason that the same is incompetent and immaterial,not the best evidence and is ~~not Q:I~~ ~~correct,because~~ ~~is going into a~~ a good deal of speculation about that. ~~A~~ -Well is there

208 Q:-Well is that not the theory advanced in the bible? A:-I am talking now about the speculation that is held about the bible and its claims that,-the theory or speculation that all colored people came from the branch of Cain and some were carried over the flood by Noah,and were not reckoned wtth the seed of Noah in taking into account the people of the world after the flood.

209 Q:-That is a mere speculation,is it not? A:-well, some people are inclined to question it.-

2I0 Q:-Is there any authority for it in the bible?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial,and not proper cross examination.
A:-Well sir,so far as I am concerned I cannot recognize any.
By Mr.Kelley,-I move the court to exclude from the record all the testimony in renation to Adam and Noah and Seth,-all the testimony or answers given by the witness to the last five or six interrogatories referring to this matter,on the ground that any answer that the witness has given or may give to them is ~~ot~~ entirely incompetent,irrelevant

~~&~~ and immaterial to any of the issues in this case."

By Mr.Southern,-

2II Q:-Well then Mr.Blair,there is just one or two more questions on this subject that I desire to ask you, and then I am done with this branch of the matter, and I will take up another branch,and I will proceed no farther with this matter as these gentlemen object to my having delving in ancient history to this extent,-I will ask you if it is a fact that the priesthood according to the bible were descended from Seth and that line of succession came down through Noah,according to the bible narrative,then is not everybody a lineal descendant of Seth?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is incompetent,irrelevant and immaterial and improper cross examination and calling for an opinion of the witness.

2I2 Q:-Are not all entitled to the priesthood? A:-They are not all first born. You must understand that there is a law of birthright that pertains to the law of lineage,as we stated it at first.. We would be if we were all first born,but we are not,and therefore we cannot all belong to the priesthood,for that belongs only as a matter of birthright to the first-born,unless the first born transgresses in some way to deprive him of his birthright.

2I3 Q:-They are not all first born,and you seem to make that a requisite that they all shall be first born? A:-So far as inheriting the Presidency is concerned that right descends to the first born.

2I4 Q:-Was that a fact in relation to Joseph Smith?
A:-No sir.

2I5 Q:-He was not the first born of his father? A:-No ~~sir~~ ~~that is my understanding~~. I understand that he

A:-No sir,that is my understanding. I understand that he was not the first born,but you,in asking that question overlook a fact that I have stated repeatedly that the right cannot exist unless the father exercises the priestly function,and Joseph Smith's father did not,-the priesthood was developed in Joseph himself.

216 Q:-Was he the first born? A:-No sir. He was not the first born,but the reason he came into possession of the priestly function was because it was developed in himself,-it was something that was developed within Joseph himself,and therefore it was something that he could not have inherited from his father.

217 Q:-Well now,if it was developed in him,how did it get to him?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial,not cross examination,and calling for an opinion of the witness.

218 Q:-What is your theory in regard to that? A:-The theory is that he received it by direct commandment,-by revelation and then he was accepted. He was accepted and appointed by the church and upheld by the faith and confidence and prayers of the church in the fulfillment of that office.

219 Q:-In Exhibit J.there,turn to page one hundred and twelve,in paragraph two,beginning at the middle of the paragraph,do you recognize this language,-"I have sent unto you my servant Joseph Smith and Oliver Cowdery to ordain you unto the first priesthood which you have received that you might be called and ordained even as Aaron,and also Elijah,unto whom I have committed the keys of the power of turning the hearts of the fathers to the children and the hearst of the children to the fathers,that the whole earth may not be smitten with a curse: and also with Joseph and Jacob and Isaac and Abraham,your fathers by whom the promises ~~were~~ remain,and also with Michael,or Adam,the father of all,the prince of all, the ancient of days." Do you recognize that language?

Counsel for the plaintiff objects to the question asked the witness on the gtound and for thr reason that the same is incompetent,irrelevant and immarerial and not proper cross examination.

A:-What is that?

220 Q:-You heard what I read? A:-Yes sir.

221 Q:-Well do you recognize the language? A:-Yes sir it is in here.

222 Q:- Well what is it? What does it mean?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and calling for an opinion of the witness and is not cross-examination.

A:-This first priesthood that is alluded to here was the Aaronic priesthood,-the lesser priesthood.

223 Q:-Do you also recognize this language in the third paragraph,-"And also with Peter and James and John,whom I have sent unto you,by whom I have ordained you and confirmed you to be apostles and special witnesses of my name,and bear the keys of your ministry;and of the same things which I have revealed unto them,unto whom I have committed the keys of my kingdom,and a dispensation of my gospel for the last times." Do you recognize that?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is incompetent,irrelevant and immaterial and not cross examination. A:-Yes sir.

224 Q:-It is the latter part of the same prophecy?

Counsel for the plaintiff objects to the question for the reasons last above given. A:-Yes sir.

225 Q:-Now what is the relation between,-what was I ~~should say,the relation between Joseph Smith the~~

should say,the relation between Joseph Smith the father of the present president of the re-organized church,to Peter,James and John?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that the same is incompetent,irrelevant and immaterial,and not cross examination.
A:-We understand that he held the same priesthood,-the same preistly authority.
226 Q:-Do you maintain that he was in the lineage of the eldest sons from James,Peter and John? A:-No sir.
227 Q:-Well in what lineage was he?
Counsel for the plaintiff objects to the question asked the witness for the raeson and on the ground that the same is incompetent,and immaterial and not proper cross examination.
A:-We understand that he was in the lineage of his fathers clear all the way back to the days of his,-to the days of Joseph in Egypt. We claim that as it is set forth in the book of Mormon.
228 Q:-Where is that to be found in the book of Mormon?
A:-I couldn't just give you the page.-yes it is at the sixtieth page of Exhibit F.
229 Q:-Here is a revelation in what we have just read given to Oliver Cowdery,-in the second paragraph. was he or was he not the same?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that the same is incompetent,irrelevant and immaterial,and not cross examination and calling for an opinion of the witness.
230 Q:-I wanted to see if you would say the same with reference to Oliver Cowdery? A:-I do not know that there was anything said in reference to his lineage, that is as to where his were or who they were,or where they came from. I am not aware now that there is anything said about that any further than he was of the lineage of Ephraim of the son of Joseph.
By Mr.Kelley,-"If you are going to examine the witness on that I insist upon your putting in the whole of that chapter."
By Mr.Southern,-Well now I don't care anything about any more of it. I have read what I wanted to read from it,and if you want it in,why introduce it in the re-direct examination.
231 Q:-I will ask you another question and that is if you base the lineage you are talking about on the authority in the book of Mormon?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that the same is incompetent,irrelevant and immaterial and calls for an opinion of the witness.
A:-We hold that the principle is set forth in the book of Mormon crearly and definitely,both by promise and precedent.
232 Q:-Is that special lineage pointed out? A:-Yes sir, the subject is.
233 Q:-Is that your theory? A:-Yes sir. It is in those words and you may call it a theory if you desire. I will read it if you wish me to do so.
234 Q:-Well,read the words? A:-"And thus prophesied Joseph (of Egypt) saying;behold that seer will the Lord bless,and they that seek to destroy him shall be confounded; for this promise of which I have obtained of the Lord,of the fruit of thy loins shall be fulfilled. Behold I am sure of the fulfilling of this promise. And his name shall be called after me and it shall be after the name of his father. And he shall be like unto me; for the thing which the Lord shall bring forth by his hand,by the power of the Lord,shall bring my people unto salvation;yea thus prophesied Joseph,I am sure of this thing,even as I am sure of the promise of Moses,for the Lord hath said unto me,I will preserve thy seed forever. And the Lord hath said,I will raise up a Moses,and I will give power unto him in a rod,and I will give judg-

ment unto him in writing. Yet I will not loose his tongue that he shall speak much, for I will not make him mighty in speaking. But I till write unto him my law by the finger of mine own hand, and I will make a spokesman for him. And I, behold I will give unto him that he shall write the writing of the fruit of thy loins unto the fruit of thy loins and the spokesman of thy loins shall declare it. And the words which he shall write shall be the words which are expedient in my wisdom, should go forth unto the fruit of thy loins. And it shall be as if the fruit of thy loins had cried unto them from the dust, yea, even repentance unto their brethren, even after many generations have gone by them. And it shall come to pass that their cry shall go, even according to the simpleness of their words. Because of their faith their words shall proceed forth out of my mouth unto their brethren who are the fruit of their loins, and the weakness of their words will I make strong in the faith, unto the remembering of the covenant which I made unto thy fathers.

And now behold my son Joseph, after this manner did my father of old prophesy. Wherefore, because of this covenant thou art blessed, for thy seed shall not be destroyed, for they shall hearken unto the words of the book. And there shall raise up one mighty among them, who shall do much good both in word and in deed, being an instrument in the hands of God with exceeding faith, to work mighty wonders and do that thing which is great in the sight of God unto the bringing to pass much restoration unto the house of Israel, and unto the seed of thy brethren. And now, blessed art thou Joseph. Behold thou art little, wherefore hearken unto the words of thy brother, Nephi, and it shall be done unto thee, even according to the words which I have spoken. Remember the words of thy dying father. Amen. Now I have read that, and we know that the church was always so instructed so far as we can learn from the church organs and the law as laid down in the standard books of the church.

234 Q:-Now the question I wanted to develop there was whether that included Oliver Cowdery as well as Joseph Smith? A:-It speaks of him here as the spokesman,-

235 Q:-Of Oliver Cowdery as the spokesman? A:-Yes sir, it was so understood to refer to him.

236 Then was that right claimed in the authority which you have just read,-did it devolve on Joseph Smith alone or was it to Joseph Smith and Oliver Cowdery?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that the same is incompetent, irrelevant and immaterial, and not cross examination."

A:-We understand this statement,-

237 Q:-Well that is an easy question to answer and I would like for you to do so. I would be glad if you were to answer it? A:-What is the question?

238 Q:-Was it according to your understanding that the language applied to both of them,-Joseph Smith and Oliver Cowdery?

Counsel for the plaintiff renews objection to the question on the grounds stated in the foregoing ~~objection~~ objection to the question last objected to, and on the additional ground that the question now asked calls for an opinion of the witness.

We understand that the one mentioned here whose name was to be Joseph after the name of his father was Joseph Smith, and not Olixer Cowdery.

239 Q:-Then why, or how do you dispose of the fact that Oliver Cowdery is coupled with Joseph Smith? A:-Simply because he was called.

240 Q:-Is not the same thing said of one as of the other in the extracts we have read here? A:-Do you mean in the book of covenants.

241 Q:-Yes sir? A:-It states there that they were called

to be apostles,and this in the book of Mormon claims that Joseph was to be called a seer,and Oliver Cowdery was to be his spokesman,and was his spokesman.
242 Q:-That is your answer to the question? A:-Yes sir.
243 Q:-Now will you read from this same Exhibit J. on page two hundred and thirty two the first and third paragraphs? A:-What paragraphs?
244 Q:-The first and third? A:-The first paragraph is as follows,-Verily,thus saith the Lord unto you my servants,concerning the parable of the wheat and the tares,behold,verily,I say that the field was the world,and the apostles were the sowers of the seed, and after they have fallen asleep the great persecuter of the church,the apostate,the whore,even Babylon that maketh all nations to drink of her cup,in whose hearts the enemy,even Satan sitteth to reign,and drive the church into the wilderness." That is the first paragraph and the third is as follows,-"Therefore thus saith the Lord unto you,with whom the ~~x~~ priesthood hath continued through the lineage of your fathers,for ye are lawful heirs according to the flesh,and have been hid from the world with Christ in God;-therefore your life and the priesthood hath remained,and must needs remain thfough you and your lineage until the restoration of all things spoken by the mouths of all the holy prophets since the world began."
245 Q:-Is that all of it? A:-Yes sir.
246 Q:-Now you spoke or said the words"for ye are lawful heirs". To whom did that refer? Who did you understand that referred to?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and calls for an opinion of the witness,and is nor proper cross examination.
A:-Whom do I understand that referred to? I understood it referred to Joseph Smith and those that were with him at the time that the revelation was given.
248 Q:-Does that include Oliver Cowdery? A:-I do not know who was present at that time.
249 Q:-Well who was present at that time? A:-I could not say unless I had a history of the church in that respect,-I could not otherwise identify them. I say this,but I am not at all certain that the church history does identify them.
250 Q:-Don't you think such an important a matter as the company that a man was in at the time so important a revelation as that was given to be known,-ought to be known to the church that looks to the revelation for authority?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the ground that it is incompetent,irrelevant and immaterial and is not cross examination and calls for an opinion of the witness.
A:-Well it most assuredly would be very convenient and satisfactory if such was the fact,but I am not responsible because it is not.
251 Q:-You disclaim responsidility then for your want of knowledge? A:-Yes sir.
252 Q:-So as a matter of fact,while you claim to be very well posted on all these questions of law and doctrine you are not so very well posted on that matter?
A:-No sir I am not. I do not pretend to be posted on that question. Joseph Smith was the one to whomm it was delivered,and who delivered it to the church,and I cannot say who was with him at the time the revelation was received. He was the one through whom it came,and by whom it was delivered to the church,and we understood that the principle applied as a matter

of course to him as well as to the others.
253 Q:-To them who were with him? A:-Yes sir. Now bear in mind that I am speaking of the general priesthood and not of the prophetic office.
254 Q:-Now if you will turn to page two hundred and twenty five of the same exhibit,at section six,-?
A:-Wwat paragraph,please?
255 Q:-Page two hundred and twenty five,paragraph six and come down fifteen lines to the words "and also"? Do you see it? A:-Yes sir,I have it.
256 Q:-Well go on and read from the words "and also"?
By Mr.Kelley,-"Well if he reads any of the paragraph I insist that he reads it all,-every word of it."
By Mr.Southern,-"Well I only want that part of it from the words "and also". If you want any more of it you can have him read it on re-direct examination,but that is all I want."
A:-And also all they who receive this priesthood receiveth me,saith the Lord,for he that receiveth my servants receiveth me,and he that receiveth me receiveth my father,and he that receiveth my father receiveth my father's kingdom. Therefore all that my father hath shall be given unto him,and this is according to the oath and covenant which belongeth to the priesthood. Therefore all those who receive the priesthood receive this oath and covenant of my father,which he cannot break,neither can it be removed,but whoso breaketh this covenant after he hath received it,and altogether turneth therefrom,shall not have forgiveness of sins in this world nor in the world to come. And all those who come not unto this priesthood which ye have received,which I now confirm you who are present this day,by mine own voice out of the heavens,and even I have given the heavenly hosts and mine angels charge concerning you"
By Mr.Kelley,-" Let the record show that the counsel for the plaintiff insists upon the whole paragraph being read."
By Mr.Southern,-
257 Q:-Well if it takes so little to satisfy you I will do what I can to accomodate you. Read the first part of the paragraph now down to where you read,-or the whole thing over again if you like?
A:-"Therefore as I said concerning the sons of Moses, for the sons of Moses and also the sons of Aaron shall offer an acceptable offering and sacrifice in the house of the Lord,which house shall be built unto the Lord in this generation upon the consecrated spot as I have appointed,and the sons of Moses and of Aaron shall be filled with the glory of the Lord upon mount Zion,in the Lord's house,whose sons are ye;and also many whom I have called and sent forth to build up my church,for whoso is faithful unto the obtaining of these two priesthoods of which I have spoken and the magnifying their calling,are sanctified by the Spirit unto the renewing of their bodies

they become the sons of Moses and Aaron,and the seed of Abraham,and the church and kingdom and the elect of God."
258 Q:-Then according to the language of that the doctrine of your church holds that the priesthood descends through Abraham? A:-Through Abraham?
259 Q-Yes sir,-from the seed of Abraham? A:-Yes sir,-that they were the literal heirs to it.
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immaterial,and not cross examination.
260 Q-Was the promise of the priesthood made to Abraham?
A:-The promises were made to Abraham as we understand it,-to Abraham and to his seed.

261 Q:-Now then we have read from a revelation here found on page two hundred and twenty three, entitled "Revelation given 22nd and 23rd of September 1832" To whom was that revelation given? A:-We understand that it came through Joseph Smith and was given to the ministry at a conference.

262 Q:-You have spoken about the Presidency of the priesthood, and I will ask you by the direction of my prompter here (Mr. Hall) whether the brother of Jared held this priesthood?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompe-, irrelevant and immaterial, and is improper cross exa ination.

A:-Well, I am not aware that there is sufficient written to determine that question. I am not aware of it if there is, but I am rather of the opinion that there is not sufficient written about it by which to determine that question.

263 Q:-Was not the brother of Jared a seer, revelator and translator?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as stated in the objection to the question last objected to. A:-Yes sir.

264 Q:-Would not the right to that office descend to his church? A:-I do not know but very little about his church. The history in regard to that is doubtless in the book of Mormon.

Counsel for the plaintiff objects to the question last asked the witness, ~~not~~ for the reasons and on the grounds that it is incompetent and immaterial and is not proper cross examination, but calls for an opinion of the witness, and moves the court to exclude from the record the answer of the witness for the reasons above stated.

A—(continued) ~~A:-(continued)~~ The history in the book of Mormon is so abbreviated that even his name is not given there.

265 Q:-His name is not given there? A:-No sir, his name is not mentioned.

266 Q:-Then the next question is was not King Mosiah a prophet, seer and revelator?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent, irrelevant and immaterial, not cross examination and asking for an opinion of the witness.

A:-Yes sir he stands revealed in the book of Mormon as possessing the gift of a seer.

Counsel for the plaintiff objects to the answer of the witness, and moves the court to strike out the same for the reasons above stated to the question to which it is an answer.

267 Q:-Did he not have children who held the priesthood?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds stated in the last preceding objection to question asked.

A:-The book of Mormon declares that they rejected the rights to which they were heirs.

268 Q-It does? A:-Yes sir, it says so in so many words,- that they rejected what were their rights, but afterwards they became eminent men in the ministry, and therefore received the priesthood at some subsequent time, but the details are not hiven.

Counsel for the plaintiff objects to the answer of the witness on the ground that it is irrelevant and immaterial, and not a reply to the question that could be asked on cross examination, and moves the court to exclude the answer from the record for that reason.

~~247 Q:-~~

269 Q:-Does that right extend to the priesthood or the kingdom? A:-My understanding is that they rejected the rights that pertained to them as descending from ~~their~~ their father.

270 Q:-Which right,-the right to the priesthood or to the kingdom? A:-Well,both of them.

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is incompetent,irrelevant and immaterial and not proper cross examination,and objects to the answer of the witness,and moves the court to exclude the same from the record for that reason.

By Mr.Southern,-"Now gentleman with your permission,Mr Hall will ask a few questions upon a subject with ~~wh~~ which I am not so very familiar,while I am attending to a little private business I have with this gentleman."

By Mr.Hall,-

271 Q:-Is it not a fact that the priesthood,-the high priesthood,-the first president of the church,and the place and office of prophet and seer,revelator and translator to the church was not conferred upon Alma the son of who was not any relation to Mosiah?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,and not proper cross examination.

A:-So far as relationship is concerned,I am not aware that there is enough manifest there to show How it is. In the book of Mormon it is held there,-it it is stated there that the sacred things passed from one generation to another,or from one prophet to to another,and it shows where it passed from,from father to son,father to son,father to son,and so on, and in the case of any break the cause of that break was stated,-that there was no heir or that there was no competent person of the lineage to take the succession.

272 Q:-Was not Nephi a revelator,prophet,seer and ~~revelator~~ translator to the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial,and not cross examination and calls for an opinion of the witness.

A:-Nephi was king. It developed in Jacob and passed down along the line of Jacob.

273 Q:-You state then that Nephi was not a prophet,seer, revelator and translator? A:-I stated---

By Mr.Kelley,-"Hold on. Iwant to object to that question. I object to that question on the ground that it is irrelevant and immaterial as well as incompetent to any of the issues of this case,or as applied to any of the issues in this case,and it is not cross examination.

By Mr.Hall,-

274 Q:-Wwat do you say to that question? A:-We claim,-the book of Mormon sets forth that he was a prophet ,and it also sets forth that there was many prophets at the same time,and there might have been many who held the gift of a seer at the same time,but so far as holding the sacred records that pertained to the church is concerned,or to the presidency,that was another thing,and that is not set forth in the book of Mormon.

275 Q:-They did not always come together? A:-No sir.

Counsel for the plaintiff objects to the last two answers of the witness,and moves the court to exclude them from the record for the reason that they are not awswers to any competent question asked properly as cross examination.

276 Q:-Now was not Nephi an elder son than Jacob?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial,and is impriper cross examination.
A:-Yes sir,as set forth in the book of Mormon he was It appears from the book of Mormon that he was.

277 Q:-Then if that was the law,-if that was the law of lineage as you have presented it here,how do you account for the fact that hte priesthood never developed in Nephi,but in Jacob?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons as set forth in the last objection,and on the additional grounds that it calls for an opinion of the witness.
A:-Simply because it is an historical fact that it did develop in ~~Joseph~~ Jacob.

278 Q:-Is it not a fact that Nephi was a prophet seer and revelator,and held that position,and was really one of the greatest prophets spoken of in the book of Mormon?
Counsel for the plaintiff objects to the ~~book of~~ question asked the witness on the grounds and for the reasons stated in the last objection.
A:-So far as his authority was concerned,he was held to be first as a king and as a civil ruler,and the statement is made there as to why he became such, and that reason was because of the extreme weakness of his elder brother. It is stated in so many words that it was because of their iniquity that that authority pertained to this presidency in civil affairs.

279 Q:-Now you have stated that it was the rule that ~~that~~ this priesthood always descended from father to son, in the book of Mormon? A:-Yes sir.

280 Q:-Is it not a fact that there are instances where it descended from one brother to another? A:-Yes sir.

281 Q:-That is a fact? A:-Yes sir.

282 Q:-And at the same time there were sons? A:-Yes sir,— there were sons?

283 Q:-Yes sir? A:-I am not aware of it.

284 Q:-Did Nephi have any sons? A:-I am not aware that he had in that line. In the line of the priesthood I am not aware that he had. The kingly authority was handed down from father to son on the same general principle that the priesthood was;and the kingly authority developed in the line of Nephi,and the priestly authority in the line of Jacob,and the priesthood,-that is,the presidency of the presthood developed in the lineof Jacob,while the kingly authority developed in the line of Nephi. Those who hold,or rather,held,the sacred things or records of the church,that function belonged always to the presiding high priest or President,and that descended in the line of Jacob,and went from father to son. Now while that was the rule,like all other rules there were exceptions to it,and these exceptions are stated in so many words,such as having no seed,for instance,-the person holding that authority,and having no seed. There is the instance where it was conferred on King Benjamin,for knowing King Benjamin to be a just man the priestly authority was conferred on him.

285 Q:-Now if this priesthood descends from father to son,from whom did Nephi obtain his priesthood?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,is not proper cross examination.
A:-Well,I am not aware. I do not think the book of Mormon states that. The supposition is that it was from his father.

286 Q:-You say that is the supposition,-that he received it from his father? A:-Yes sir,that is the only reasonable supposition,for it is not a matter of history as to how he did receive it.

287 Q:-Is there any historical record of Jacob having received it from his father?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as set forth in the last objection.
A:-Well now in regard to the record that is there given of that matter I cannot say definitely how that reads. I do not know that there is anything well defined in reference to that. The book of Mormon is very much abridged.

288 Q:-You say the book of Mormon is abridged? A:-Yes sir,it is an abridgment,-that is evident,-it is not the one hundredth part of what was originally the records,-that is to say the one hundredth part of the records only,or about that,is to be found in ~~this~~ this abridgment. There is many a thing in there that we wish had been elaborated more fully than it is, but it is not there though,much as we wish it was.

289 Q:-You stated did you not that it did not necessarily follow that the gift of a prophet,seer and revelator should be held or exercised by all who held the position,did you not?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immaterial and not cross examination. A:-No sir.

290 Q:-You did not? A:-No sir.

291 Q:-Well what did you state about that? A:-It seems to have the rule in the book of Mormon as shown by the sacred records of the church,that the Urim and Thummim went from one prophet to another,and tracing the manner in which it was done,it passes down from father to son with ~~but few~~ occasional exceptions. In one instance we find it going to a brother,and in another instance going out of the lineage,because there was no lineage or rightful heir.

292 Q:-The fact that a man held these places,is that evidence that he was a prophet,seer and revelator?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial and is not cross examination. A:-Yes sir.

293 Q:-Well answer me this question,,did Nephi hold theses places? A:-He held some of these places,because it is recorded that he held them. There is a record to that effect.

294 Q:-Did he have the Urim and Thummim? A:-I think I could settle that better perhaps. I think I could settle that better in one way than in any other way by turning to the record,but I do not care to do so unless it is desired.

295. Q:-All we want is to settle the question of the position that Nephi held in the church,and if you can throw any light on the subject from the book of Mormon,that is what we want? A:-We have the record that Nephi consecrated his brothers Joseph and Jacob to be teachers,but as to the further office,-that of

holding the presidency,we have no historical record of it that I am aware of.

296 Q:-Well I thought,said the priesthood developed in--who was it you said the priesthood developed in?
A:-In Jacob. I said the priesthood developed in Jacob.

297 Q:-What priesthood was that? A:-The presiding priesthood,-in other words,the presidency of the priesthood,for it says in here (referring to the book of Mormon) as you doubtless are aware,that the plates and the Urim and Thummim were to be handed down from generation to generation,from one prophet to another and they descended down in the line of Jacob in that day from Jacob to Enos and from Enos to Seth. I think that was the way of it,and I believe I can find that in there.

By Mr.Kelley,-"We wish it to be understood that we are objecting to all of this examination,and every portion of it for the reason that it is neither relevant,material or competent,and is not cross examination."
A:-On page 181 of Exhibit F.,it says in the last two paragraphs,-"And it came to pass that I Jacob,began to be old;and the record of this people being kept on the other plates of Nephi,wherefore I conclude this record,declaring that I have written to the best of my knowledge,by saying that the time passed away with us,and also our lives passed away,like as it were unto us a dream,we being a lonesome and a solemn people,wanderers,cast out from Jerusalem,born in tribulation in a wilderness,and hated by our brethren which caused wars and contentions,wherefore we did mourn out our days.

This is the part I especially refer to in the ninth paragraph,-"And I Jacob,saw that I must soon go down to my grave;wherefore I said unto my son Enos,Take these plates. And I told him the things which my brother Nephi had commanded me:and he promised obedience unto the commands. And I make an end of my writings upon these plates,which writing has been small;and to the reader I bid farewell,hoping that many of my brethren may read my words. Brethren adieu." And then coming to the book of Enos it says on page one hundred and thirty four,-no it is on page 181 it says,-"Behold it came to pass that I Enos,knowing my father that he was a just man,for he taught me in his language,and also in the nurture and admonition of the Lord. And blessed be the name of my God for it. And I will tell you of the wrestle which I had before God before I received a remission of my sins." And he goes on and states how he hunted beasts in the forests. It appears from this that the priesthood descended to Jarom,for on page 184 we see,-"And I Jarom write a few words according to the commandment of my father Enos,that our genealogy be kept. And as these plates are small,and as these things are written for the intent of the benefit of our brethren,the Lamanites,wherefore it must needs be that I write a little,but I shall not write the things of my prophesying,nor of my revelations For what could I write more than my fathers have written? For have not they revealed the plan of salvation? I say unto you,yea,and this satisfyeth me." And passing on down page one hundred and thirty five to this paragraph,I read the latter part,-"I Jarom do not wrire more,for the plates are small. But behold my brethren you can go to the other plates of Nephi;for behold on them the record of our wars are engraven. According to the wtitings of the kings,or those which they caused to be wrirren. And I deliver these plates into the hands of my son Omni,that they may be kept according to the commandments of my fathers." So you see they pass on to Omni and from him to his son Aaron,and from him to his son Chemish

and to his son Abinadom,and so on,for that was the order of the usage in those times.

By Mr.Hall,-

298 Q:-Now you have stated that a man who held the plates and the Urim and Thummim,and was commanded to use them was a prophet,seer and revelator?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is incompetent,irrelevant and immaterial,and not proper cross examination.

A:-As a matter of course he was a revelator and a prophet,but a seer is another thing,-it is greater than a prophet.

299 Q:-What do you mean by that? A:-I mean this,-that a seer is greater than a prophet. In other words a man may be a prophet and nor be a seer.

300 Q:-Was not Nephi a prophet because of the fact that he held those plates and things?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,is not cross examination and calls for an opinion of the witness.

I understand that he held that which pertained to ~~th~~ the kingdom,that he held the kingly office,and that he himself made plates that pertained to the civil office or civil affairs of the people as is mentioned right there in the epistle to which I have referred

301 Q:-From your knowledge of the book of Mormon can you say whether or not Nephi was in possession of the brass plates,and also of the interpreter?

Counsel for the plaintiff objects to the question asked the witness for the reasons last above stated.

A:-Well I could not say.

302 Q:-What is yout best judgment as to that? A:-I could not say.I could not give a conclusive answer to that question without examining the record. He held plates and executed plates,and this passage I have just read related that it referred to the civil,or to the affairs of the civil government,-such things as are in contradsitinction to the priestly office.

303 Q:-Were not these plates which Nephi made the result of that direct commandment from God to him to make those plates?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immaterial and is not cross examination.

304 Q:-What is your answer? A:-The presumption is they were.

305 Q:-And were they not handed down from genaration to generation by his commandment?

Counsel for the plaintiff objects to the question asked the witness on the groubds and for the reasons set forth in the last objection.

A:-So far as they related to kingly affairs they were

306 Q:-Were not the other plates handed down in the same way? A:-Not necessarily by his commandment.,because they passed from Jacob down through his line. In regard to the spirit ual concerns of the people,it went down the line of Jacob to Enos,and from Enos to his son,and from that son to his son,and so on passing down through the line of Jacob for a number of generations. Now that is what the record shows.

307 Q:-Did not the first commandments in regard to these sacred plates,-did not the commandmends for the preparation of these plates,and the handling of them come down through Nephi?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent irrelevant and immaterial, and is not proper cross examination.
A:-I understand that the first commandment came through Lehi himself. The first commandment of all, and it was under the instructions of Lehi received that Nephi went back and got the phates.
308 Q:-Then I understand you to say that Lehi gave commandment in regard to the plates that Nephi manufactured? A:-No sir.
309 Q-Well that is the question? A:-well, I understand that the first plates that were had were thase that were procured under the commandment of Lehi, and that afterwards Nephi prepared plates in regard to the kingly office and the civil affairs of the people. That is my understanding of the matter. The plates that Nephi prepared, as I understand it, were in relation to the affairs of civil government, and not in regard to the priestly government, for in those times the priestly office had been developed in Jacob, and passed down that line. That is my understanding of it.-that the spiritual office of the priestly function was developed and passed down the line of Jacob.
310 Q:-That is your understanding, is it? A:-Yes sir.
311 Q:-Well is that the fact? A:-That is my understanding of the fact, and I believe it to be the fact.
312 Q-Who made the plates that Jacob made his records on?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immaterial, and is not cross examination.
A:-Who prepared them?
313 Q:-Yes sir? A:-Well sir, that I am not prepared to say. They might have been called the plates of Jacob for all that I know.
314 Q:-Did not Nephi manufacture them for the purpose of recording thereon the sacred things, as well as for recording thereon the kingly matters?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is incompetent irrelevant and immaterial, and not cross examination.
A:-I think not, sir, for the priesthood and the presidency of it were in Jacob's line, and I do not think he did. I think not sir, for I think it is stated in history that the inscriptions, or what was inscribed on Nephi's plates related to the temporal and civil affairs of the kingly office, and not the spiritual office. I think the plates of Nephi contained matters of history.
316 Q:-We understand you to state then, that Nephi never prepared any plates for the sacred things? A:-No sir I say that if he did I am not aware of it.
By Mr Kelley,-"I move the Court to exclude all of the cross examination by Mr. Hall,-all the questions he propounded to the witness, and the answers of the witness thereto, from the record, for the reasons that it is incompetent, irrelevant and immaterial, and not cross examination, and is not authorized as it does not call for the best evidence."
Cross examination continued by Mr. Southern,-
316 Q:-Mr. Blair, where do you go to find the doctrine taught by the church from 1830 to 1834? A:-In the book of Mormon, the book of covenants, the Evening and Morning Star, and the Messenger and Advocate.
317 Q:-What was the name of the church from 1830 to 1834
A:-The name of the church was "the church of Christ" "The Church of Latter Day Saints", "The Church of Christ of Latter Day Saints". There were three or

four,or more different forms as I can remember it,of the name by which the church was designated during that period.

318 Q:-Was that the case during the period from 1880 to to 1884? A:-Yes sir.

319 Q:-That is the period about which I inquire? A:-Yes sir and that is the period to which my answer refers.

320 Q:-Those names you have given were the various names by which the church was known and designated? A:-Yes sir,that is what we ascertain by reference to the record.

321 Q:-I would be glad if you would point from one of these publications the name of the church other than the name of "the church of Christ" during the period from 1880 to 1884? A:-On page three hundred and seventeen of Exhibit three it is designated as the church of Latter Day Saints.

322 Q:-What is the date of that publication? A:-It is May 1884.

323 Q:-What is that in? A:-It is in the Evening and Morning Star.

324 Q:-In what publication of the Evening and Morning Star? A:- It is in volume two.

325 Q:-What is it in,an editorial or a communication? A:-It is an editorial.

326 Q:-You are sure it is an editorial? A:-Yes sir,I should judge so.

327 Q:-That is an editorial that was simply published in that paper at that time? A:-It is signed "Editor of the Star.?

328 Q-Do you regard all editorials published in that paper as authority in the church? A:-No sir,not necessarily. I simply refer to that as proof going to indicate what the usage was at that time in refer-ence to the name of the church.

329 Q-And that is all you read or give it for? A:-Yes sir. It is simply one of the historical facts going to show what the name of the church was,or tending to show or indicate what it was called at the time that was written.

330 Q:-The church certainly had a name given to it by its founders,and if that name was changed at some time,it must have been changed by its authorities? Now then,what I call for is the evidence of the fact if there was a change in the name of the church from 1880 to 1834 by anybody who had authority to change it? If there was a change made in the name of the church during that period,can you give it? A:-Yes sir,that is in 1834?

331 Q:-Yes sir,or at any time between 1880 and 1834? A:-I find the name here I have stated.

332 Q:-Now then did that editor have the right to change the name of that church? A:-No sir. I simply offer that as one of the evidences that the church was known by that name at that time,else it would not have been referred to in that way.

333 Q:-Now then,can you give some other authority? A:-Yes sir.

334 Q:-Well do so? A:-On page three hundred and fifty two I think,-yes sir,we find the following,-"May 3rd Kirtland,Ohio.1834Minutes of the conference of the elders of the church of Christ,etc."

335 Q:-It is the church of Christ there? A:-Yes sir,but it goes on and recites as follows,-"After prayer the Conference proceeded to discuss the subject of names and appelations,when a motion was made by Sydney Rig-don,and seconded by Newel K. Whitney,that this church be known hereafter by the name of the church of Latter Day Saints. Appropriate remarks were de-livered by some of the members,after which the motion was put by the Moderator,and passed by unanimous voice." "Resolved that this Conference recommend to the conferences and churches abroad,that in making

out and transmitting minutes of their proceedings such minutes and proceedings be made out under the above title." That is what we find here.

336 Q:-Do you understand that to be a change in the name of the church? A:-So far as the mere form of the change is,I do.

337 Q:-Then you regard that as a change in tha name of the church? A:-Yes sir.

338 Q:-Was thare any authority for that change? A:-Yes sir

339 Q:-Well,what was it? A:-The authority of the church.

340 Q:-Was that the authority for the original name? A:-Usage,sir. It was somttimes called the "Church of God",sometimes called the "Church of Christ",and sometimes the "Church of the Saints". It was called by various appelations,and I take it that that was a motion calculated to fix the title by which it was to be known.

341 Q:-Well was that the name in 1884? Did it not have an official name at that time? A:-When we turn to the book of Mormon we find prophecies there that relate to the church that would be organized in the last days as being the "Church of God",and the "Church of the Lamb of God". You will find these appelations in the book of Mormon,and it was denominated such by prophecy.

342 Q:-Well what was this church denominated in the prophecy given by Joseph Smith? A:It was denominated the "Church of Christ."

343 Q:-Well,did it go by that name till 1834,at the time you have mentioned? A:-I can't say. Idon't know but what there was other names used.

344 Q:-Do you know of any other names,other than the "Church of Christ" that was used? A:-I could not say as to that unless I examined the matter fully and thoroughly. As it is set forth in this record we esteemed the matter in regard to the name of the church. It is very difficult to get at the matter intelligently,but we have assumed the name to be the same as it was in the dsys of the early christians.

345 Q:-Well,Mr.Blair,there seems to have been a change of name made at that conference the minutes of which in that respect you have just read? A:-Yes sir,it was changed so far as that conference was concerned. You will observe that it is referred to as the "Church of Christ",which I take it to be the name by which it had been known,and then by resolution it changed to the "church of Latter Day Saints" I do not think from my reading and research that ever before that conference it was always known and designated as the "Church of Christ,although that was the name given it at the outset.

346 Q:-That is the name that was given it,and by which it was known amongst the authorities of the church? A:-Yes sir,and I think at the same time it was known by other names also.

347 Q:-Well,I am not enquiring about what other people called it. What I want to know is what the official church called it,-what its official name was at that time,-that is between 1880 and 1834? A:-I think they called it the church of Christ and some other names too

348 Q:-Well,will you show us some other names other than the "Church of Christ" prior to the date of that conference,the minutes of which in respect to the name of the church you have just read? A:-Well,if you have time,--

349 Q--Well now,that is a simple question and you ought to be able to answer it yes or no,-are you prepared to do so? A:-Yes sir,I am in this sense.

350 Q:-In what sense? A:-In the sense that the church adopted the bible and the new testament and the book of Mormon as the basis of its faith,and it was under-

stood then,and is understood now that the church was sometimes called "tha Church of God",the "Church of the First Born","the church of Christ",or the "church of the Saints" and the "Church of the Lamb of God".

351 Q:-Was it ever called the "Church of Latter Day Saints"? A:-Prior to this time?

352 Q:-Yes sir? A:-Well I am not prepared to answer that.

353 Q:-Was not the,-was not that the name of the"Church of Latter Day Saints" or the "Church of Latter Day Saints" given it for the first time by that conference? A:-It says that was the name they gave for it.

354 Q--And was not that name given the church after Partridge came here to Missouri? A:-I think so,for I understand that Edward Partridge was here as early as I832.

355 Q:-It was given there at what time? A:-When was that name adopted?

356 Q:-Yes sir? A:-In I834.

357 Q:-Well,that was after Partridge came here in I832? A:-Yes sir,that is a self-evident fact.

358 Q:-Well now was that name of the Latter Day Saints changed after that time? A:-Yes sir.

359 Q:-When,and what was it changed to? A:-IT was changed to the "Church of Jesus Christ of Latter Day Saints."

360 Q:-Well now will you please turn to the authority for that? A:-I would if I had it here,but the fact is I haven't it here.

361 Q:-I think I gave,-I think you gave it a while ago on that point? A:-No sir,not on that point.

362 Q:-Well,would the Saints Herald published at Lamoni, Iowa,December I8th,I886 help you out? A:-I could not say until I examined it.

363 Q:-Will you please look at the paragraphs marked here in that publication,or in that issue of the paper? Read it and state whether or not it represents your idea on that ~~point~~ question? A:-"The true church is in fact and in essence "the Church of Jesus Christ"and is composed of "saints",and Latter Day Saints at that. In these essential facts lie the verity and propriety of the corporate name,"The Church of Jesus Christ of Latter Day Saints." To object to thia and demand that the corporate name shall consist exactly and only of these words,viz,- "the Church of Christ" ~~antagonize~~ is to antagonize the prophecies and the usages of the church in both ancient and modern times. For these reasons we object to being confined to the verbal name "the Church of Christ."

"Another reason lies in the fact that the church in I884,in Conference assembled,saw fit to denominate itself officially,"the church of the Latter Day Saints." Evening and Morning Star,Volume 2,page 352, etc. This was done,it is claimed by some,because there was another church incorporated with the exact title,the Church of Christ,and it was foreseen that confusion would ensue unless the recorded title of the two bodies were different and distinct."

"In I888 the church adopted the further title,the church of Jesus Christ of Latter Day Saints,-See Mill.Star,vol,I6,pages II7,I30,I3I,etc. And April 26th I888,Joseph the seer received a revelation saying;Verily thus saith the Lord.....My Church of Jesus Christ of Latter Day Saints,scattered abroad in all the world,for this shall it be called in the last days."etc. Mill,Star,vol I6,pages I47,I48.

"In order that the reader may see the timeliness of this revelation,he should remember that these were trying times for the church,for some of her strong

ones were turning away to the "beggarly elements" following their own private notions,and seeking to justify themselves by wresting and perverting texts of scripture to suit their theories,prominent among them the name of the church.
"In conclusion on this point,we shall readily and cheerfully adopt as its corporate title"the Church of Christ,"when a command to that effect comes through God's authorized prophet and Seer to His Church. God's church is one of order and authority, and he is wise who heeds thia fact and profits by it. Private inter pretations of scripture,like private notions of church government,are neither consistent nor scriptural. "If he neglect to hear the church let him be unto thee as a heathen man and a publican."

Matt I8-I7. That part of the quotation I have read in the second paragraph is a matter of history,I may say,taken from the Millenial Star,-the quotation and the authority for it is given.

364 Q:-In I838 the church adopted the further title,the Church of Jesus Christ of Latter Day Saints." That is a matter of hiatory,you say? A:-Yes sir,it is a matter of history as contained in the Millenial Star. We give our authority for it there,-we just published it for what it was worth,and as one of the evidences showing what the title of the church was.

365 Q:-What time was that? A:-I838.

366 Q:-Then that is a matter of history in the church? A:-It is a matter of history as contained in the Millenial Star.

367 Q:-Well,is that fact so recorded there,recorded,or known to be a fact from any other source? A:-I do not know only as we find it there.

368 Q:-Then in I838 the church took the name of the Church of Jesus Christ of Latter Day Saints? A:-It is so recorded in the Millenial Star.

369 Q:-Well this is in the Saints Herald,-the copy I have shown you,-dated at Lamoni,Iowa,and published there December I8th I886? A:-Yes sir,it is published as an extract from the Millenial Star.

370 Q:-Were you one of the editors of the Saints Herald at that time,-at the time it was published? A:-Yes sir.

37I Q:-Well then you regard this as good authority,do you not,as you were one of the editors of the publication in which it appears? A:-I regard it as good authority for what it purports to be. We simply reproduced it as a part of the Millenial Star bearing on that question,and publiahed it for the benefit of our readers simply and solely for what it is worth,and what it putports to be,and we give our authority for it,and where it may be found in the ~~or~~ original publication.

372 Q:-Is it a fact that the name of the church was changed by a revelation given to Joseph Smith,or through him in I838? A:-It so states in there,-that is all we know adout it,- is simply what is stated there.

373 Q:-Does the re-organized church give credence to ~~this~~ that? A:-They have never accepted the Millenial Star as authority.

374 Q:-Will you answer my question,Mr.Blair? A:-I think i have. I know I endeavor to do so.

375 Q:-Well I do not think you have sir. A:-What isy our question?

376 Q:-I asked you if the re-organized church accepted ~~that~~ as authentic the revelation that is there stated to have been given? A:-Some of them do and some do not. The re-organized church as a body has never passed on that question.

377 Q:-Did the old church pass on it? A:-Thr term "Jesus Christ"was the name of the church in a distinctive sense,-the "Church of Christ" and latterly the word "Jesus" was prefixed to it,and then it was called the "Church of Jesus Christ of Latter Day Saints"
378 Q-Did the church ever pass on the name? A:-I cannot find any record other than what I have cited,sir, on that point,but it evidently did,for that was the name of the church,as we find it in the historical,- or rather the history of the church that is extant at the present time.
379 Q:-Was that the name of the church a t that time? A:-Yes sir. 380 Q — But such was not the case until 1834? A-
381 Q:-Well now Mr.Blair,that is rather tangled up,and I would like to get to know something about it,but it appears according to the books which you have ,-or which have been put in evidence or on exhibit here and identified,it seems does it not that there were revelations after 1834? A:-Yes sir.
382 Q:-Then you admit that there were revelations after 1834 A:-Yes sir. I do not think any one will deny that fact.
383 Q:-What is done with revelations in the church when they are made?
Counsel for the plaintiff objects to the question asked the witness on the grounds and foe the reason that the same is incompetent,irrelevant and immaterial,and is not cross examination.
A:-What do you mean,-in what way?
384 Q:-Well,what disposition was made of them,if any? ~~Su~~ Suppose there is or would be a revelation given to Joseph Smith,what disposition would the church make of it,-in other words what would the church do with it? A:-I suppose they were recorded.
385 Q:-If there would be a revelation given to Joseph Smith what would be done with it? A:-It would be put on along with the church records.
386 Q:-Would it go into the book of doctrine and covenants? A:-If it was a revelation that the church had accepted
~~387 Q:-Did you have a book of doctrine and covenants in 1834? A:-No sir,not at that time.~~
~~388 Q:-They did not have a book of doctrine and covenant~~
387 Did they have a book of doctrine and covenants in 1834? A:-No sir not at that time.
388 Q:-They did not have a book of doctrine and covenants at that time? A:-No sir.
389 Q:-When did they have that ? A:-The first edition of the book of covenants was issued in 1835 I believe.
390 Q:-Well,what books did they have in 1834? A:-They had a book that was called the book of commandments that was partially printed,-it was in process of publication,and when it came back it was found as we find it recorded,that there was some typographical errors in it and it was not accepted,and so a committee was appointed to prepare and present to the church such of the commandments and revelations as it was thought best should be presented to the church as containing its doctrine,-~~if my memory serves me right~~ That committee performed its work, and in August,-if my memory serves me right,-there was a general assembly of the conference of the church called and they examined the work of this committee,and passed upon it,endorsing it without dissent. That was in August,I believe,of ~~1835~~ 1835.
391 Q:-Are you sure that is the date? AI:--I could tell if I had the volume here. That work was accepted,and it became the authorized book of doctrine and covenants,as containing the doctrine and law of the church of Jesus Christ of Latter Day Saints. Now the former book,-the book of commandments,-was composed in part of revelations that were sent up here to Independence to be published,and they were placed in the hands of John Whitmer,Oliver Cowdery and W.W.Phelps

It was not ever then.
adopted.

and the work was never published.
392 Q:-Why was it not published? A:-The very best reason in the world sir,for the printing office was demolished by a mob,-the type of work was pied and the work was never completed,and when that uncompleted w work was returned to Kirtland,history records the fact that it was generally reputed to be very defective and incorrect typographically and otherwise,and the statement is mabe that the original document by which to revise and correct it was destroyed or lost and so then it was that as nothing could be done with this work,that the committee was appointed to oversee this work and report to the conference,which they did,and their work was acted on officially by the church,-the various quorums,etc,and was endorsed. That is how the book of doctrine and covenants came
~~393 Q:-At what time was the book of doctrine and covenants printed? A:-In 1835,-the same year that it~~
into existence,as the work of that committee.
393 Q:-At what time was the book of doctrine and covenants printed? A:-In 1835,-the same year that it was accepted by the church.
394 Q:-What was the church called at that time? A:-It states right there that it was called the church of Latter Day Saints.
395 Q:-The General Assembly of the Church of Latter Day Saints? A:-Yes sir.
396 Q:-Now then when was the next book of doctrine and covenants printed,with the additions to it? A:-I really could not tell you sir,but I suppose,however, that it was a reprint of this 1835 edition. I am not positive in regard to that,but the same general work was reprinted at Nauvoo. I am not prepared to say ~~as~~ what the next issue was of that book,but think it ~~was~~ was in 1835 that it was first printed,and that there was a reprint or re-issue of it made in 1845.,but as to that I would not be positive.
397 You think there was one issued that was printed in 1845? A:-Yes sir.
398 Q:-Then when was there another edition of it appeared? A:-In '46. That is my memory of it now.
399 Q:-Well when was there another edition printed? A:The re-organized church issued an edition of it.-I think it was in 1860. It was in 1860 or '61 That the re-organized church issued an edition of that work,but I would not say which of these years it was I can't say as to when that was,but any way the edition I refer to was issued or printed at cincinnati, Ohio.
400 Q:-Well when was there another edition? A:-I think there were two editions that were printed at Cincinnati.
401 Q:-At what time? A:-That I could not tell you when they were both issued,-I couldn't say in fact that there was more than one issue issued from Cincinnati but I am under the impression there was,although I cannot remember accurately.
402 Q:-About when was that? A:-As I have already stated that was in 1860 or '61.
~~403 Q:-About when was that?~~
403 Q:-When was there another edition published? A:-At Plano.
404 Q:-When was it published,~~-~~ not where but when? A:-I am not prepared to say ~~for I was not connected with the office at that time.~~ but the history or date of the book wil show.
405 Q:-Well whe was the last edition of the book issued prior to the one we are now speaking of? A:,I am not prepared to say for I was not connected with the office at the time.
407 Q:-Well when was the last edition published? A:-I think the last plates were prepared in 1880.
408 Q:-When was the printing done? A:-We do the printing right along as it is necessary. We have the plates prepared and we issue them in lots of five hundred or one hundred as it is necessary. We print them in

whatever form may be necessary at the time, as we have the plates from which to print them, and we can do that whenever we desire to do so.

409 Q:-Is it not a fact that in all the editions of that book, the latter edition contains matter that was not in the former? A:-What is that?

410 Q:-I asked you if it was not a fact that in all of the editions of the book of doctrine and covenants, the edition so issued contains matter that was not in the last prior edition,-in other words the latter edition contains matter that was not in the former edition ,-additional matter? A:-Possibly it may be so. I do not think it is always the case.

411 Q:-Is there not always some matter added at the back part of the book in each succeeding edition? A:-Not always,-but there has been some changes made in some of the editions, I know.

412 Q:-Is it not a fact that there are some fifteen or twenty revelations in the back part of this book that you are now using, that is not found in any of the other editions of the same book? A:-I couldn't say, but I believe so. There is a revelation that was given in '61 that,-

413 Q:-A revelation given by whom? A:-By the president of the church.

414 Q:-Who was he? A:-Joseph Smith, the president of the church. I did not complete my last answer, and with your permission I shall do so now.

415 Q:-You certainly have my permission to do so sir? A:-There was a revelation as I stated given in 1861, one in '63, and one in '65, and another one in1873, and occasionally there has been one since. Some of the revelations given have never been printed.

416 Q:-Now how do you record these revelations, as laws and rules of action for the church? A:-Why in the same way that any other revelation is recorded.

417 Q:-Well I want to know how that is done,-that is what I want to ascertain? A:-By the action of the church in adopting and receiving them. When they have been adopted by the church they become a law and rule of action binding upon the church

418 Q:-Have all these that have been adopted by the churh or are all these that have been adopted by the church regarded as rules of action by the church? A:-Yes sir, as soon as they are adopted by the church they become binding upon it.

419 Q:-Well now can you tell me where in the laws of the church Joseph Smith, the present president of the re-organized church, ever got authority for the giving of revelations? A:-Well, we claim in the first place that he was appointed to do that by prophecy, under the hands of his father, and we have the testimony of those who were present, and who are reliable and competent witnesses, who claim to have been present when he was appointed to that office prospectively, and we claim that such testimonies were likewise given to the church years before he came that he would eventually come to the church, and become its presiding officer. We had these testimonies from 1851 along down to 1860 that he would eventually come to the church and be its presiding officer, and fill the place formerly occupied by his father; and he came to the church at the time of the Conference at Amboy in 1860, and claimed that he had been directly called of God to the position of presidency of the church, and the matter was submitted to the people, and such was the manifestation of the faith and blessing of God that it satisfied the elders and others composing the body of that conference that he was called, and he was nominated and accepted by the

unanimous consent or vote of the people,and was ordained under the hands of Zenas H.Gurley,Samuel Powers and William Marks and myself to the presidency of the church,to be possessed of and have all the powers and everything that pertained to that office. Now sir that is the history of how Joseph Smith came to the re-organized church,and the call that he had to it.

420 Q:-Now then,prior to 1844,-that was the time of the death of Joseph Smith? A:-Yes sir,-June 27th 1844,I believe was the date.

421 Q:-Well what I want to get at is whether or not prior to that date there was any law in the church indicating that this power was in Joseph Smith that you have spoken of? A:-That it would pass to him?

422 Q:-Yes sir? A:-Yessir

423 Q:-That was a law of the church? A:-Yes sir.

424 Q:-Now do you assert that that was the law of the church prior to the death of Joseph Smith in 1844? A:-Yes sir,I assert that that is the way we understand it. We understand that the eighteenth paragraph of section ona hundred and seven of the book of doctrine and covenants is a prophetic promise for it states there that the blessing,alluding to the ministerial blessing,of his father was to be placed on the head of his posterity,and Joseph being the eldest son as a matter of course was the head of that posterity.

425 Q:-Did not Joseph Smith,who has been called by Mr. Whitehead and others "the martyr"have other sons beside this son Joseph? A:-Yes sir.

426 Q:-Had he not had sons prior to the birth of this son Joseph? A:-Not that I am aware of.

427 Q:-Did he not have other sons after the birth of this son Joseph? A:-Yes sir.

428 Q:-What does it take to make up the seed of a man? A:-It takes his children.

429 Q:-It is a man's children that constitute his seed? A:-Yes sir.

430 Q:-And all his children? A:-Yes sir.

431 Q:-Well then in that case,-if that is the case,how comes it sir that you presume to put upon the head of one child an office when the law gives it to his children,-when it should descend to his posterity,by what authority do you pretend to confer the office upon the head of one child alone? A:-It does not say so.It does not say to his posterity. It says definitely and conclusively that it shall be placed upon the head of his posterity,and a man's posterity may be made up of a score or more,and the head-of that posterity is the eldest son living. There can be no doubt of that.

432 Q:-And that you are sure about? A:-I am.

433 Q:-And the only reason that he is the head of his sire's posterity is because he is his eldest son? A:-Yes sir,-just in the same manner as the head of a class is constituted,-the first one in a class is the head of it.

434 Q:-Then you say that the present Joseph Smith of the re-organized church holds his office by reason or authority of a revelation given to his father in 1844,do you? A:-In 1841.

435 Q:-Do you make that statement that it was in 1841? A:-I make the statement sir that Joseph Smith was entitled to succeed his father,by virtue of the general law of lineage in the first place,and then sir by reason of the special promise made in 1832 in the revelation we have just read here,where the promise was made to Joseph that it should remain in his seed -this priesthood should remain in his seed until the restitution of all things sought for by the mouths of the holy prophets since the world began,and then

again in parsgraph eighteen of section one hundred and seven where it says that the blessing of Joseph should go to the haed of his posterity;and then furthermore we depend somewhat on the testimony of those who were present,-of various people who were present at the time that he individually indicated his son Joseph personally as his successor in the office.

436 Q:-That was a revelation? A:-Yes sir.

437 Q:-Did that revelation ever become a law of the church? A:-Yes sir.

438 Q:-Was it ever adopted by any of the bodies or authorities of the church? A:-We have adopted it,and the presumption is that it was adopted in the days of ~~the~~ Joseph the Seer.

439 Q:-Are there any records of it prior to the ~~days of~~ year I844? A:-Prior to I844?

440 Q:-Yes sir? A:-I am not aware of any.

44I Q:-Is this not the way it is,-that a revelation must first be given to the revelator,and then by him given to the church,and be adopted by the church before it can become a ~~rule~~law and rule of action to the church? A:-Yes sir.

442 Q:-When these conditions are complied with,then,and not until then does it become binding upon the church A:-No sir,not until it has been accepted and approved by the body does it become a law binding upon the church.

443 Q:-Then you say a revelation was given to Joseph Smith,the Martyr,before his death,relative to the ~~XXXXXXXXXXXXXXXXXX~~ XXX succession? A:-Yessir.

444 Q:-And in pursuance of that revelation the re-organized church accepted the revelation? A:-Yes sir.

445 Q:-And that made it binding upon the church?-the re-organized church? A:-Yes sir.

446 Now did the re-organized church adopt that? A:-Yes sir,it adopted the book of doctrine and covenants and that revelation was a part of it. That revelation was embraced in the book of doctrine and covenants,and the whole book was adopted.

447 Q:-Was there ever any action taken upon revelations by the quorums and various bodies of the church prior to I844 and after I835?A:-I am not aware that there was any.

448 Q:-Well do you know whether there was or was not? A:-I say that I am not aware of any. I have no ~~X~~ porsonal knowledge of any for I was not a member of the church at the time,and there is no history that recites the fact as to whether there was or not.

449 Q:-Then if there was any action taken by the church on revelations after I835 and prior to the time of Joseph Smith's death,how did the revelations so given become binding upon the church? A:-Simply because it was the law that was laid down whereby they were to receive revelations.

450 Q:-Did you not state it to be the fact that they had to be adopted by the church,-that that was the law of the church,-that they had to be accepted or adopted by the church before they became the law of the church,and binding upon the church? A:-Well,yes sir,for we find this rule embodied in the revelations that were handed down to the church. That rule was adopted in I835 I think,and although there is no history that I am aware of that says anything on the subject,yet I think it is fair to presume,-I think it is a reasonable presumption that they were adopted by the church. I think the presumption is that they were all received and adopted in accordance with the laws of the church in the same manner.

45I Q:-Will you please turn to the book of doctrine and

covenants of the edition of 1835,and point out that rule? A:-The 1835 edition?

452 Q:-Yes sir. A:-I will if I can.

453 Q:-The edition of 1835.-the first editiob or book of the doctrine and covenants that was issued,and show that rule or law whereby you say it was the rule that a revelation must be admitted to the quorums or body of the church before it could become a law binding upon the church,by meeting with their approval and recognition? A:-It is in section thirteen on page one hundred and twenty of Exhibit E.-"Hearken O ye elders of my church who have assembled yourselves together in my name,even Jesus Christ,the son of the living God,the Saviour of the world;inasmuch as they believe on my name and keep my commandments; again I say unto you,hearken and hear,and obey the law which I shall give unto you;for verily I say as ye have assembled yourselves together according to thr commandment wherewith I commanded you,and are agreed as touching this one thing,and have asked the father in my name,even so shall ye receive. Behold, verily I say unto you,I give unto you this first commandment,that ye shall go forth in my name,every one of you excepting my servant Joseph Smith,junior and Sydney Rigdon. And I give unto them a commandment that they shall go forth for a little season, and it shall be given by the power of my Spirit when they shall return,preaching my gospel two by two,in my name,lifting up your voices as with the voice of a trump,declaring my word like unto angels of God,and ye shall go forth baptizing with water,saying repent ye,repent ye,for the kingdom of heaven is at hand." I do not know that that is exactly in point.-

454 Q:-Well it does not strike me as being exactly in point,-have you read the whole of it? A:-I have read all that paragrapg,-the two paragraphs.

455 Q:-Well I would like to know what you qouted that to prove? A:-That they were agreed in regard to their being commanded to go together,and agree on what they would accept as the word of God for the government of the church.

456 Q:-And so that is what you think that proves? A:-Yes sir.

457 Q:-Well I would like to know how it comes that you think it proves that? A:-It is to be taken in connection with something else.Taken in connection with the revelation that is alluded to right there,which reads like this,-

458 Q:-Hold on,-what are you reading from? A:-It is on page one hundred and eighty eight,paragraph one of section sixty one of Exhibit E,-it is pages one hundred and eighty eight and one hundred and eighty nine,and it reads like this,-"Hearken and hear,oh ye my people,saith the Lord,and your God,ye whom I delight to bless with the greatest blessings;ye that hear me,and ye that hear me not will I curse,that have professed my name,with the heaviest of all cursings. Hearken,ye elder of my church whom I have called,behold I give unto you a commandment,that ye shall assemble yourselves together to agree upon my word,and by the prayer of your faith ye shall receive my law,that ye may know how to govern my church,and have all things right before me." Now that is what they would agree to accept,and the next revelation shows that they had ~~accepted~~ assembled together in compliance with that commandment.

459 Q:-When was it that they assembled together,as you say in compliance with that commandment? A:-That would be just a few days afterwards.

460 Q:-In what year? A:-1831.

461 Q:-Did they have any quorums at that time? A:-well whether they were organized in quorums at that time

does not appear here and therefore I am unable to say positively whether they were or not.

462 Q:-Well if there were no quorums at that time,who would it be presented to? A:-It would be delivered to the ministry.

468 Q:-Now then,in the re-organized church to whom is a revelation presented when it is delivered? A:-It is first presented to tha first presibency,and from it goes to the twelve,and then to the high counsel,and then passes on to the hihg priests,the seventy,the elders and priests and the teachers and the deacons.

464 Q:-That is the metnod of procedure that is observed? A:-Yes sir.

465 Q:-And if it meets with no snags,what then? A:-Then it is presented to the body.

466 Q:-Then it is presented to the body? A:-Yes sir to the entire body of the church.

467 Q:-Was that the case prior to 1844? A:-It was the case from the beginning as I understand it.

468 Q:-How do you know that was the case prior to 1844? A:-I do not say I know it of my own knowledge,-I say it was the case according to my understanding.

469 Q:-You have stated,have you not,that you did not know there was any quorum of twelve at the time that revelation was given? A:-No sir.

470 Q:-And you do not know that there was any seventy? A:-Oh yes.

471 Q:-At that time was there a seventy? A:-Yes sir.

472 Q:-There was? A:-Yes sir.

473 Q:-Well was it presented to them? A:-Yes sir.

474 Q:-Was this revelation you have been reading presented to them? A:-Yes sir.

475 Q:-How do you know that,-I should like you to give me your means of knowledge? A:-I can give you my knowledge sir,and read it to you too if you really desire me to do so.

476 Q:-Well that is what I want,but remember that I am talking about the law prior to 1835? A:-Well sir that is provided for in this section sixty one which I have already read,where the commandment is that they should come together and agree on the word of God,-the word that should be submitted unto them. In accordance with that commandment it appears that they held a conference,and they all agreed upon what they should accept as the word of God. Now they met together in compliance with that requirement,and the presumption is that they proceeded right on in compliance with the requirements of the spirit of that commandment,and decided what they would receive.

477 Q:-That is a presumption of yours,is it not? A:-Not altogether,for I think it is,-it states here that they did that very thing. There is no other conclusion that can be drawn from what is stated here.

478 Q:-Have you any evidence of that? A:-Nothing but what is in the book of covenants at that time,for at that time they had no church paper printed.

479 Q:-This occured in 1831? A:-Yes sir.

480 Q:-And the book of covenants was printed in 1835? A:-Yes sir.

481 Q:-Now can you tell what doctrine was adopted in 1831? A:-Well it would be the doctrine contained in the new testament scriptures and the book of Mormon. In this statement of the books of doctrine the bible is placed first.

482 Q:-Well also would it not be whatever revelations Joseph Smith had given up to that time? A:-The bible is placed first in order,and the book of Mormon comes next,and then they were to remember the church

ordinances and covenants to do them. That we find in the revelation of I83I.

483 Q:-Now then you say that in the re-organized church, when a revelation is given it has to go through all the quorums and then to the body? A:- Yes sir.

484 Q:-And be accepted by all of them before it becomes a law binding upon the church? A:-Yes sir.

585 Q:-Now was that the case prior to I884 when a revelation was given? A:-I am not aware that there is any history that relates to it any further than what is contained in here.

486 Q:-What is there in there about it? A:-Here is a commandment that the ministry and church should decide upon what they would accept as the word of God and be governed by

487 Q:-That is of the ministry. You do not mean the quorums by the word ministry? A:-Yes sir, that includes the ministry, for it may be organized in quorums or singly.

488 Q:-Well were the quorums organized at that time? A:-I am not prepared to say how far they were organized.

489 Q:-You do not know whether they were organized at that time., that is, prior to I884 or not? A:-No sir I am not aware of the extent to which they were organized.

490 Q:-Was the first presidency organized at that time? A:-There was a first presidency in the sense of being the first elder in the church from the very start.

49I Q:-Who was the first elder of the church? A:-Joseph Smith was ordained the first elder of the church. He was ordained as being the first elder in the church, and Oliver Cowdery the second, but in the sense of their being a first presidency that did not occur until the latter part of I88I, as far as my memory of the fact serves me now.

492 Q:-When did the first quorums of twelve appear? A:-The first apostles were not chosen until I835 or '36,-that is as quorums.

498 Q:-As a quorum they did not appear until that time? A:-Yes sir.

494 Q:-Now do you say there was a body called the "seventy" in the old church? A:-Yes sir.

495 Q:-When was the seventy chosen? A:-Along about the same time.

496 Q:-Have you other quorums in the re-organized church other than the seventy and the quorums of twelve? A:-Yes sir, we have high priests, elders, priests, teachers and deacons.

497 Q:-Did they have all of them in the church between I830 and I884? A:-At that period how many quorums they had I am not prepared to say.

498 Q:-Did they have them all in the church from I830 up to I884 is the question? A:-I can read for you the account here.

499 Q:-Well I ask you for the facts? A:-I can give you what there is here on the question,-

500 Q:-Well state the facts if you know them? A:-Here for instance is the first presidency of the church composed of Joseph Smith, Oliver Cowdery and Sydney Rigdon.

50I Q:-The fact is stated there? A:-Yes sir.

502 Q:-What date is that? A:-August I7th I835.

503 Q:-What is it a record of? A:-Of the General Assembly of the church. Then there was the high council of the church at Kirtland presided over by W. W. phelps and J. Whitmer, and there was another high counsel called the high council of the church in Missouri to look after the affairs of the church here in this part of the world, and bishop J. Whitney presided over it and organized his counselors. He presided over the bishopric and ell organ-

ized the bishops for Missouri,and President Leonard organized the council of seventeen(???). The term quorzm and council are used inter-changably or synonymously. Erastus Babbit organized the deacons,etc, and Thomas Gates and others organized the entire assembly. Now that was the nature of the organization at the time this was received. I have only given you an epitome or synopsis of what is contsine ained here.

504 Q:-Where is that to be found? A:-On pages two hundrd and fifty five,two hundred and fifty six and two hundred and fifty seven of Exhibit E.

505 Q:-Now can you state why it was they effected these organizations at that time? A:-Well they might have been made in part,-some of them prior to that time.

506 Q:-You say they might have been made prior to that time? Q:-Yes sir some of them.

507 Q:-Will you tell me how it could be that an organization that was made prior to that time,could have been made at that time? M A:-I cannot answer that question.

508 Q:-Well in the very nature of things that could not be,could it? A:-I don't understand what you mon mean.

509 Q:-Well I mean just this,that an organization that was made on a certain day could not have been made on any other day? IS that not a fact Mr.Blair? ~~A:-Y~~ A:-Yes sir.

5I0 Q:-It could? A:-No sir.

5II Q:-Well then it is a fact that an organization which was effected on a certain day could not be effected on any other day? A:-Yes sir,but that could not prevent them from being re-organized.

5I2 Q:-Well does it say re-organized? A:-No sir.

5I3 Q:-Well was that,or is that not the very organization that was organized,-is that not the very organization so re-organized? A:-Yes sir,I think it was the beginning of it,-

5I4 Q:-Well then It could not exist before that if that was the beginning of it? A:-Well of course not.

5I5 Q:-Have you these organizations? A:-In the re-organized church?

5I6 Q:-Yes sir? A:-Yes sir?

5I7 Q:-Now I believe you also stated that the re-organized church has more of these organizations than the old church had from I830 up? A:-Yes sir,more than they had from I830 to I834.

5I8 Q:-From I830 to '34 they did not have them? A:-They were in process of development,but they did not arrive at completion until I835. They were not completed in their development until I835.

5I9 Q-Do you know of any reason why that organization was not completed earlier than that? A:-There was not enough in the church to fill them up. If they had filled them out and completed the organization at that time it would have taken probably more than the membership of the church at the time to have completed them,and they had to be formed you know out of suitable material.

520 Q:-Has there ever been a General Assembly formed in the church in fact from I835 to the present time? A A:-There has been general assemblies,-yes sir. There has been Grand Councils,General Assemblies,and General Councils.

52I Q:-Has there ever been a General Assembly from I835 up to the present time? A:-We regard our general conferences,where there is a conference of the entire ministry,-we regard them as the same thing as a general assembly. Conferences and General Assemblies are synonomous with us,-that is the significance of the terms are the same with us.

526 Q:-Will you please state how a conference in the re-organized church is composed? A:-Yes sir.
527 Q:¥--Well please do so.
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reason that the same is incompetent and irrelevant and not cross examination.
A:-The general confreence is composed of all the officers of the church meeting together at a designated place. There is a general notification given and all are invited to attend,and as soon as they get themselves together they proceed to chooses the officers of that body out of the ministry,and they do that uot of courtesy and the general law governing in the case,whereby it is customary to take the Presobency of the church,whether it be one or two or three persons,they are usually chosen,-one of them,-or nominated to preside,-and they may be chosen or rejected. The law regulating that is the law of custom largely. The body can choose whoever it sees fit to preside over the general assembly.
528 Q:-Do you claim that the conference of the re-organized church,which you claim to be equivalent to the general assemblies of the former church,-are composed of the officers of the ~~former~~ church? A:-Yes sir, everybody,-all are invited. It is a general announcement.
527 Q:-Is it composed of the officers of the church?
A:-Yes sir,and the members of the church that may come together to the assembly or conferenc e. It is a general conference of the members of the church. Out of courtesy to the membership they are invited to take part in the proceedings and discuss the topics that may be up for consideration.
528 Q:-Then the membership of the church takes part in these conferences which you say are the equivalent of the General Assemblies held in the old church?
A:-Yes sir,that is a courtesy that is extended to the membership
529 Q:-Are they entitled to vote? A:-Yes sir,-for instance they are entitled to vote upon such questions as the austaining of the officers,and upon questions of general import.
530 Q:-How long has it been sincs the lay membership,-if I may use the term in describing the memberahip of the church,-has been admitted to the Conference in the re-organized church? A:-I understand that they were admitted from the very first.
531 Q:-Then how many of the lay membership do you admit? You say you have a membership of twenty five thousand people in your church? A:-Yes sir something about like that.
532 Q:-Well supposing your entire lay membership was to attend the Conference,how many of them would you admit? A:-We would admit what were there.
533 Q:-But suppose they were all there? what then?
A: Well in that case we would admit what we had room for. We would admit them all if we had room.
534 Q:-Well,I say suppose the whole twenty five thousand should come? A:-Well in that case,-if such a thing should occur,-and they all could get together,all right,-let them come say we.
535 Q:-Well if that is a fact that they did attend,and the lay membership was in attendance to a large extent do their votes count in the same manner as the votes of the officers and ministry? A:-On some questions,yes sir.
536 Q:-There are some restrictions then upon their right to vote? A:-Yes sir.
537 Q:-Upon what questions can they vote? A:-Upon such questions as sustaining the officers.

538 Q:-Can they vote upon any other questions? A:-Yes sir.
539 Q:-Well what others? A:-Any other matter that is of general importance to the church that is referred to them by the presiding officer.
540 Q:-Well suppose it was not referred to them,-what then? A:-Well in that case they would not vote on it
54I Q:-They could not vote on it unless it was referred to them? A:-No sir. It would have to be referred to them before they could vote on it.
542 Q:-Well,when your officers have an official session, what votes are counted? A:-In all cases where the doctrine or the government of the church is involved in any way,the right to vote on a matter of that kind is usually limited to the ministry,and especially is this so upon questions of vital importance involving or affecting the government of the church. but,as I stated before,where it is a matter of the sustaining of officers,such a question is usually put to the entire ministry and the membership,-I should say to the entire assembly present,-both ministry and membership.
548 Q:-Well supposing that the ministry should all vote one way and the lay membership another way,would the majority carry? A:-Yes sir,the majority would carry the day,but it would be a very unfortunate thing for such an occurence to happen,-but in case such a thing should happen the majority would carry it of course,for that is the principle that the majority present and entitled to vote always carries the question being voted upon.
544 Q:-Now is it not a fact Mr.Blair,that the law of your church at the present time provides for a delegate system from the various local churches or branches? A:-Yes sir.
545 Q:-And is it not also the fact that it is the way that private or lay members come into your conferences? A:-Yes sir,some of them do,-especially as delegates,-and in that case where there is a vote taken on the yeas and nays,-where that is called then their right to vote is limited in respect to church government,-they are permitted to vote in that case,-~~bu~~ but the right to vote is not permitted to lay ~~delegt~~ delegates unless it is especially authorized by the presiding officer at the time.
546 Q:-Were there any lay delegates at the church assemblies prior to I844? A:-I think right here in this same book of covenants that such principle was carried out there. It was not perhaps carried out to the extent that it is with us.
547 Q:-Well,was it carried out at all,and can you give an instance,-an instance where a lay delegate had representation in the church prior to I844? A:-I can only answer as I did before that I believe it can be shown by this book of covenants that principle was carried out,for there were delegates sent from this state of Missouri to attend this conference at the time this book of covenants was received and approved
548 Q:-In I845? A:-No sir,-it was in I835.
549 Q:-Well I meant to say I835. Did you state that these delegates were elected or sent by the church at Independence? A:-No sir,I said from Missouri. It was over in Clay County they were sent from there.
550 Q:-Were theyelected delegates by the individual church? A:-Evidently they were.
55I Q:-Evidently they were,you say? A:-Yes sir.
552 Q:-Were they lay members or officers? A:-Officers.

553 Q:-They were officers and not lay members? A:-They were officers,but whether there were any delegates that were not officers,but were lay members I could not say until I examine the records. I could not tell that without examining the history.

554 Q:-Were there any lay delegates in any of the assemblies prior to I834? A:-I could not say sir. I am not prepared to answer that question.

555 Q:-Now how can you swear that the doctrine of the reorganized church at the present time,is the same as the doctrine of the old church from I830 to I834? A: A:-I can say so sir.

556 Q--Well what I want to get at is how can you tell that? A:-I can tell it by the principles that are in the records. Here is the organization of the high council that is recorded in the book of doctrine and covenants of the church and in the church history. We find these things recorded in both,-not as explicitly perhaps as we might wish,but yet explicitly enough to satisfy any one,according to my mind,of the facts they will and do teach. We have the record of that council,and the record says it was composed not only of officers,but likewise of the membership. The membership was there and was represented in the votes of the organization of that body.

557 Q:-Will you state whether these conferences ever assembled,for instance,from I835 to I844? A:-Most assuredly they did.

558 Q:-Will you state whether the conferences so assembled as you say from I835 to I844 had any secretaries and kept any record of their proceedings A:-Yes sir.

559 Q:-Please state where those records are? A:-We have them in the Times and Seasons.

560 Q:-I mean the original records? A:-The original records,we do not hnow what has become of them.We do not know what has been done with them,but if I may state the fact,-we have they were burned.

56I Q:-Have you not also-heard or learned they were taken to Salt Lake? A:-Well some of them were I assume.So far as the record of names was concerned,and so far as ~~the~~ some of the church history is concerned I so understand the fact to be,but I will add that it was the usual thing in those days to have the record printed right at once,-that is the record of those proceedings that were had or made in these conferences.

562 Q:-Who do you understand burned those records? A:-we don't know but it is supposed that the Utah Mormons did.

563 Q:-That is a mere report or rumor? A:-Yes sir.

564 Q:-You do not know it to be a fact? A:-No sir.

565 Q:-Have you any history of their burning them? A:-No sir.

566 Q:-Then what you say here ,is that you don't know where those records are? A:-No sir,I don't know where they are.

567 Q:-Now I will ask you this question.,if God is and has been giving these revelations through all this period of time,if you hold,-if it is not a doctrine of your church that he will preserve and take care of his revelations? A:-We do not understand that it was the revelations that were destroyed. We understand that it was the records,and not the revelations that were destroyed.

568 Q:-Were not the revelations put on record? A:-I suppose they were and we have more or less of them now that have never been published.

569 Q:-Is it not a fact that there were revelations given that have never been published? A:-Yes sir and we have some now.

570 Q:-Where did you get them? A:-They were found in the of Emma Smith.

371 Q:-Have you any means of knowing there were not others? ~~AQ:-~~ A:-I could not say.
372 Q:-You cannot say as to that? A:-No sir.
373 Q:-If the re-organized church that existed prior to 1884,-I should say if ~~it~~ it existed as the successor of the church that existed prior to 1844,how do you know that to be a fact? A:-Simply because it is the successor to the original church. I know that,-at least that is what we claim.
374 Q--Why have you not the records of the original church then if you are its successor? A:-Simply sir because they were taken to Salt Lake by the faction that went west under the leadership of Brigham Young.
375 Q:-How do you know that to be a fact? A:-Well sir,I have it,-they were stolen,-
376 Q:-They were stolen? A:-Yes sir that is my information.
377 Q:-How do you know that to be a fact? A:-I had it from Mrs. Emma Smith the widow of Joseph Smith the Seer,and she stated that property was taken,and private property also.
378 Q:-Did you not say it was reported that these records were burned? A:-Yes sir.
379 Q:-By whom? A:-By those parties that got them.
380 Q:-How do you know that? A:-Well they were stolen before they burned.
381 Q:-Answer my question,-how do you know that to be the fact? A:-Well it is a matter of rumor,I suppose, but I got it from some parties who stood close to the head of affairs,that they were burned.
382 Q:-Do you mean that they were burned by the twelve that were in office at the time of the death of Joseph Smith? A:-No sir I do not mean any one in particular,because I do not wish to incriminate any one without I have positive knowledge. It is simply a rumor ~~that~~ which has come to us in such a way and from such a source that we cannot very well question the fact that the records were taken out and burned.

By Mr.Kelley,-"I move the court to exclude all the testimony in regard to these records for the reason that it is incompetent,irrelevant and immaterial, hearsay and not cross examination."

~~383~~By Mr. Southern,-
383 Q:-Why did you call the church to which you now belong,"The Re-organized church"? A:-Simply because it was an re-organization of the elements that composed the old original church.
384 Q:-That is the reason you called it the re-organized church? A:-Yes sir.
385 Q:-Then it had been disorganized prior to that time? A :-Yes sir.
386 Q:-What had become of it when it was dis-organized? A:-I scattered abroad to the different parts of the world.
387 Q:-It had no organization then? A:-No sir,-no complete organization.
388 Q:-Well now answer me this question,-what is a church? A:-It is owing altogether to what you refer.
389 Q:-Well answer the question,-what is a church,if you can,and if you cannot,why say so? A:-Well the term as applied at times signifies a body of worshippers, and sometimes it applies to a complete organized body of worshippers,and sometimes it is a,-
390 Q:-Is a church without a doctrine? A:-No sir it cannot very well be.
391 Q:-Is it a church without a law governing it? A:-I cannot say,but I understand of course that a body of

people would have some law or doctrine distinguishing them. As a matter of course I understand that. Now you asked me for my opinion and I have given it to you.

392 Q:-Do I understand you rightly when I say I understand you to say that between 1844 and 1852, there was no organized church? A:-No sir,-not so far as relates to branches. There were branches of the ~~chur~~ church, and in that sense the church had an organized existence. There were numbers of branches of the church in different parts of the country, still existent, but the church as a whole had ceased to exist ~~393~~ from the fact that it was disorganized.

393 Was William Smith's one of the branches to which you refer? A:-No sir.

394 Q:-Did you not belong to that branch yourself? A:-Yes sir.

395 Q:-It was not a church? ~~AQ-:~~A:-It was not the church.

396 Q:-Answer my question,-was it a church? A:-It was without doubt a chutch, but it was not the church.

397 Q:-Did it have all the requirements for a church,-that did it have all the requisites you give for a church?,-the twelve apostles, the first presidency, the seventy, the councils, and all these things? A:-It had some of them, and claimed to have some that it did not have possibly.

398 Q:-Now you say you belonged to William Smith's church, did you not? A:-Yes sir.

399 Q:-And you say it was a church? A:I say it was a branch.

400 Q:-Was it a branch? A:-It had all the elements of a branch.

401 Q:-And you belonged to it? A:-Yes sir.

402 Q:-To the branch, as you term it, that he led? A:-Yes sir.

403 Q:-Do you belong to it still? A:-No sir.

404 Q:-How did you come to get out of it? A:I just simply dropped out of it.

405 Q:-Is it not a fact that William Smith helped to drop you out of his ~~X~~ church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immaterial, and is not cross examination. A:-No sir.

406 Q:-There was a Hedrickite branch of the church also, did you not testify there was? A:-No sir.

407 Q:-You did not? A:-No sir.

408 Q:-And that you swear to? A:-I do. I never said that. The claim that was made when I first got acquainted with them was that they were a part and portion of the original, primitive church,-that is that they were scattered members of the original church, but they did not claim to have any organization as a church beyond simple branches.

409 Q:-Did you not go down to some country or other to confer with them at one time? A:-Yes sir.

410 Q:-Were they at that time an organized legal church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it calls for the legal opinion of the witness, which the witness is not competent to give.

A:-They were organized into branches.

411 Were they a part of the true church? A:-I do not know. That is a matter perhaps on which I am not competent to give an opinion.

412 Q:-You know there was a number of their local organ-

izations, perhaps as many as fifteen or twenty of them
A:-Yes sir, possibly there was that many.
4I8 Q:-And you visited them? A:-Not all of them I do not think.
4I4 Q:-Well were they members of the original organization during its existence? A:-I think that many of them had been in the primitive church, but after the disruption of the primitive or original church, they had organized under their own system, and that system was an organization distinct from the other that existed in the primitive church. They were comprised, as we understood it, largely of members who had been, or rather I should say who had once been members of the original church.
4I5 Q:-Did you ever attend a conference of the Hedrickite church? A:-I did.
4I6 Q:-More than one? A:-Two of them I believe.
4I7 Q:-It was the Hedrickite church? A:-It was what was called the Hedrickite people afterwards. They were not called by that name then, but afterwards they were called the Hedrickite people I believe. They did not make any claim to being a distinct organization,-they simply claimed to hold the ministerial power, and be members of the church at large.
4I8 Q:-When was this conference you held with the Hedrickite people,-or rather with the Hedrickite church A:-We did not hold any with them at all.
4I9 Q:-Did you go down to see them? A:-I can give you all the details of it if you want it. I can tell you just what was done, and how it came to be done if it is necessary, and you desire to hear it.
420 Q:-Well now sir that is not what I asked you. If you will answer my questions I will be glad of it? A:-What is the question?
42I Q:-Did you visit them? A:-Yes sir.
422 Q:-The Hedrickites,-you visited them? A:-Yes sir what was called the Hedrickites.
423 Q:-Was there a body of them gathered together at the time? A:-Yes sir.
424 Q:-Where? A:-At Bloomington, Illinois.
425 Q:-Did you appear before that body? A:-Yes sir I did
427 Q:-When did you do that? A:-I think it was in the winter of '57 or '58. I would not be positive, but that is my memory now.
428 Q:-How did you go there to appear before them?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent, irrelevant and immaterial, and not proper cross examination.
429 Q:-How did you come to appear there? A:-Mr. Hedrick and Mr. Owen attended our conference in the fall of I857, and they were accepted and received the right hand of fellowship from our people at the time, and at that time Mr. Hedrick and Mr. Owen requested that some of our ministry be sent down there to reason with those people and explain to them ~~to them~~ our position so as to explain, or rather so as to effect a union tith them,-a union of the two bodies, and it was on that application that I was selected along with Edmund C. Briggs to go down and see them about it. We went down and I do not remember now whether they reorganized or whether they were organized at all,-but at all events we went down in accordance with that request to explain our position, and when we got down there and attended the meeting Mr. Hedrick got up and preached, and he commenced a very virulent attack on the reputation of Joseph Smith, and I sat there and listened to it for about the space of thirty minutes I suppose, and then I became so indignant at it that I got up and left the meet-

ing and went up in the city of Bloomington,and then I came back to the meeting,and when I got back there after the lapse of say about thirty minutes,he was at it still. I remember it right well and I remember that Mr.Briggsor myself had no part or parcel in it at all,for it was evidently a mistake in our coming down there at all,and we did not propose to participate in that meeting and was not invited to do so. For these reasons we did not participate or take any part in that meeting.

Counsel for the plaintiff objects to the answer of the witness,and moves the court to exclude the same from the records on the ground that is incompetent,irrelevant and immaterial,and hearsay,and is an answer to a question that is improper cross examination.

430 Q:-Is it not a fact that there was a lack of unanimtybetween that church and the one you represented? A:-Well we did not think so at the time we went down there,but we found there was after we got where. Had we known the circumstances before we went there we should not have gone. Now the fact is that when Mr. Hedrick and Mr Owen visited us at Blanchardsville we supposed there was a general unity between the two churches,or rather between the two bodies,or that the unity that existed between them did not diverge to such an extent as to render all attempts at union abortive,else we should not have ventured down there,but when they came to our conference and invited us down there we were totally unprepared for the virulent and malignant assault that was made on the founder of the church and its seer and prophet.

431 Q:-Well the fact is,to cut it short,that you discovered that there was a lack of unity between the two branches? A:-Yes sir.

432 Q:-When did you discover that? A:-I did as soon as I heard Mr.Hedrick open his batteries,-I knew there was no unity as soon as I heard that.

Counsel for the plaintiff objects to the question asked the witness and to the answer of the witness to same,and moves the court to exclude the answer on the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination,and an opinion of the witness.

433 Q:-Well is it not a fact that when you admitted them to your conference,you admitted a body of men to your conference that did not believe in your doctrines? A:-No sir,-they signified that they did.

434 Q:-Well did they accept your doctrine? A:-No sir, there was no formal acceptance of the doctrine,but by their action in coming into the conference,and acting as they did,in inviting us to send parties prepared and able to explain our position to them they certainly acted as if they accepted our position,-in fact they so expressed themselves,and desired us to send down parties prepared to explain our position to them so that the rest of ~~our follow-~~ their followers or members might also understand it.

435 Q:-Well were they received as lay or as official delegates? A:-As neither. They were received as elders of the church.

436 Q:-That was in 1857? A:-Yes sir.

437 Q:-And that was at the meeting at what point? A:-At Blanchardville.

438 Q:-Was the church that they represented on the rolls of that conference? A:What is that?

439 Q:-WAS their church enrolled as a church belonging to that conference? A:-We admitted them as simply belonging to different branches.

440 Q:-Was their brahch on the rolls of the Conference? A:-No sir.
44I Q:-They were not enrolled on the rolls of the conference? A:-No sir not that I am aware of.
442 Q:-Had it ever been ~~enrolled~~ on the rolls of the conference? A:-Not that I am aware of.
443 Q:-Do you say it had never been,and was not at that time? A:-I say that I am not aware that it had ever been,and I am almost,-I am quite positive it never was.
444 Q:-Then sir,will you explain why it was that you received and admitted as members of the conference members whom you did not know anything about? A:-We received them upon their own representations and the representations of people who knew them.
445 Q:-That was the reason they were accepted? A:-That was the reason they were admitted.
446 Q:-Is there any law of your church that authorizes the acceptance of anybody who comes along upon their own representation,-is there any law of your church ,or usage that authorizes such a course of procedure A:-Yes sir.
447 Q:-There is? A:-There is.
448 Q:-Under what circumstances? A:-Where a person is known to have belonged to the original church,and has done nothing to disfellowship himself he is admitted.Where a person is known to have belonged to the original church,and not been dismembered,they are admitted upon their original membership.
449 Q:-Now will you lookYat the letter N in one of these lines here in Exhibit "N",entitled the "Minutes of the Conference of the Church of Jesus Christ of Latter Day Saints,held Oct. 6th I857 at Zara Hemlah in Wisconsin",and from which you read this morning.with reference to the reception of Owens and Hedrick in that conference? A:-Yes sir,
450 Q:-Now will you look at the word Hedrick in these minutes,-now has that word not been forged there? A:-No sir.
45I Q:-Do you say it has not been forged there? A:-I say it has not.
452 Q:-Now sir is that not an interpolation? Is it not interpolated there? A:-No sir-
453 Q:-Is that word not written in a different ink from the other part of the book? A:-Yes sir,but I understand that was simply the act of the writing of it in there by the individual who afterwards copied the book or the record,and it was not plain at first and he has just brought it out plainly by writing over it again on the same lines.
454 Q:-Please look at it again,and state if it is not the fact that word is written over another word,and in a different ink? A:-No sir,I think that is the same word. It is possible that the letter "C",-it looks as if it had been written "Hedricks". That is the way it seems to have been written originallv. The letter "C" has been inserted ~~here~~ there.
455 Q:-Has not the whole word been inserted there? A:-No sir,-you can trace the outlines of the word plain enough. There is no trouble about that.
456 Q:-Do you testify positively to the genuinsness of those records as they stand there? A:-Yes sir,in the main I do. In their main outline I testify that they are correct,-that is,they are substantially correct. I was clerk of that conference,and the minutes that I kept went into the hands of the church recorder and he entered them in this record as they are here

457 Q:-You kept these minutes? A:-Yes sir,-the original minutes of which they are a copy.
458 Q:-Where are they? A:-I do not know.
459 Q:-And afterwards they were copied in thoes records? A:-Yes sir.
460 Q:-Were you present when they were copied? A:-No sir.
461 Q:-Do you know whether they are kept correctly or not? A:-No sir,but I know these to be facts that are stated here. I know this to be the fact,for I have a recollection of it independent of what these minutes show.
462 Q:-Do you know whose handwriting that is in there,-that which is in blacker ink than the rest is,-do you know whose handwriting that is in? A:-I do not know.
463 Q:-Is it the same writing sir? A:-No sir,I do not know whether it was written by the same party or not,for it appears to have been traced over the other and that might have been done by some other person.
464 Q:-You cannot say as to that? A:-No sir,but I should judge from ~~the appearance of the letter~~ its appearance that the letter "C" had been left out in spelling the name "Hedrick" at first,and had been added afterwards,but whether that was done by the first person who wrote,or at some date subsequent by some other person I could not say. That is my opinion that the letter "C" had been left out,and the clerk writing with different ink,had followed as nearly as he could had written it over again tracing the original outline,and in doing so had inserted the letter "C".
465 Q:-It is stated in these minutes of that meeting in 1857,which you have odentified here,and which have been placed in evidence,that Hedrick and some one else was put upon a committee to report on doctrine -to compile a report on doctrine? A:-Yes sir.
466 Q:-Now sir do you know why that was done? A:-It was done with a view of presenting the doctrines of the re-organized church in some manner that would be authentic,-that is to say,that would be authoritative on the part of the re-organized church,and to send ~~it~~ it abroad as the doctrine of the re-organized church
467 Q:-Then in 1857 it follows from what you say,does it not,that the doctrine of the re-organized church had not been settled? A:-Yes sir.
468 Q:-That is a fact? A:-Yes sir,that is a fact,and the object in the appointing this committee was for them to write out a statement of the doctrine and position of the church so that there might be some thing authoritative to present to the world.
469 Q:-What kind of a statement? A:-A clear statement of the position of the re-organized church.
470 Q:-What kind of a statement? A:-A clear statement that would be authoeized upon all the essential ~~poi~~ points of doctrine.
471 Q:-Well was there any such a statement at that time in existence? A:-Did they ever make one?
472 Q:-Well no,-was there there any such a statement at that time in existence? A:-We had already endorsed ~~t~~ the bible,the book of Mormon and the book of doctrine and covenants.
473 Q:-Well was there a statement prepared? A:-Yes sir.
474 Q:-Well what did you make that statement for? A:-To set forth the doctrine and faith of the church,and do it so it would be authorized.
475 Q:-What for? A:-Why for the convenience of the people into whose hands it would come,-both of the members of the re-organized church and the people outside of the church into whose hands it might come.

476 Q:-Is it not ~~as~~ a fact and was it not a fact at that time that Hedrick and his followers differed from the church you were representing or to which you belonged,and you wanted to see if there could not be a reconciliation effected? A:-Yes sir.

477 Q:-And that is the reason that this committee was appointed to prepare a statement as to the doctrine of the re-organized church? A:-We knew that they did not understand the doctrine of lineal descent as we did,-that is Mr.Hedrick did not,-and they did not understand the book of doctrine and covenants as pointing directly to the eldest son of Joseph Smith as being the proper person to hold the presidency of the church. We knew they did nor understand that,and we considered at the time that that was the essential point of difference between us,and that understanding remained until we went down to Bloomington and heard his onslaught on Joseph Smith.

478 Q:-Was there any other difference? A:-No sir not that I am aware of now.

479 Q:-Well you know these differences existed at that time? A:-Well they were not exactly differences. There was no opposition that I am aware of that existed either in the minds of Mr.Hedrick or Mr.Owens, nothing that was expressed at all events,for they did not advocate any especial view or principle with regard to the organization of the church.

480 Q:-That was at the time they came to your conference, the conference of the re-organized church at Blanchardville? A:-Yes sir.

481 Q:-But when you went down to Bloomington to see them you found out that there was some difference? A:-Yes sir.

482 Q:-You found out that they did entertain some different views? A:-Yes sir. They held this view,-that is to say Mr.Hedrick did,-He engaged in a diatribe publicly in regard to the reputation of Joseph Smith, and assailed his personal character in most outrageous terms.

483 Q:-Do you recognize this pamphlet which I now hand you entitled "True Latter Day Saints Herald"? A:-Yes sir.

484 Q:-Did you not have that pamphlet at the date there of "Plano,Illinois,November 15th 1864"? A:-Probably I did.

485 Q:-Do you recognize the letter which I now show you as being a letter written by yourself? A:-Yes sir I recognize that letter as probably being correct I do not know anything to the contrary in regard to it

486 Q:-Would you please take a little time and examine it carefully? A:-Yes sir I think I recognize that as far as I have read it.

487 Q:-Do you think it was a faithful report? A:-Yes sir I should presume it was.

488 Q:-What was the date of that letter? A:-'64 I believe.

469 Q:-In 1864 you say,-what time in '64? A:-In September,-It is September 20th 1864.

490 Q:-Look further in the letter and see if you had a conference with any of these Hedrickites prior,-if you had a conference or interview with them prior to the conference at which they appeared in 1857,-that is a conference prior to the time or the conference at which Hedrick appeared in 1857? A:-Yes sir.

491 Q:-When was that? A:-That was in June 1857.

492 Q:-Now did you not have a personal conference with them about the question of doctrine prior to that time? A:-I was down to Mackinaw in June 1857,-it appears from the letter that it was in June 1857,but I could not positively ibentify the time I was there

except from this letter,only I recollect it was in the summer,and this letter says it was in the month of June and I assume the time is correctly stated.
493 Q:-Was that prior to this conference at Zara Hemla? A:-Yes sir.
494 Q:-Well go on? A:-What do you wish to know?
495 Q:-You had a conference at Mackinaw? A:-No sir I had no conference. They met there in what was denominated a conference.
496 Q:-Who met there in what they denominated a conference? A:-Old Mr. Judy and Granville Hedrick,and perhaps half a dozen other ones. I do not believe there was beyond a dozen male and female persons met there at that time. They met there at the residence of old Father Judy,and at the time,as I understood it,they did not propose to be governed,-they were at sea and not know what to be governed by,and they proposed that they would not be governed by,or they would not have anything to do with the book of doctrine and covenants,for it seemed to be a new thing comparatively with them. At that time they did not have any thing to do with it,and they did not know how to proceed,it seemed,-
497 Q:-Later than what date? A:-Well hold on,-they proposed to have nothing to do with any of the revelations for the reason that they did not seem to understand much,if anything,about them,and the book of covenants seemed to be a new thing comparatively at that time. Now that is my memory about it.
498 Q:-You say they refused to accept revelations later than a certain date? A:-No sir.
499 Q:-You did not say that ? A:-No sir.
500 Q:-Well is it not a fact that they refused to accept revelations after a certain date? A:-I cannot say as to that.
501 Q:-In that letter which has been identified here by you,did you not say"In 1855 and 1856 Mr.Page denied the book of doctrine and covenants totally and said as late as June 1857 in a conference with the Hedrickites at Mackinaw,Illinois,which I attended,that if the church endorsed the revelation given on the day the church was organized,April 6th 1830,they must necessarily endorse all the balance. This he argued publicly at the time. I argued and insisted upon taking all of them. The Hedrickites would take but a part of them and John E. Page would have none of the But elder Page is improving a little it would seem, for I now understand he now endorses all the revelations up to February 1834." Now will you answer that question? A:-That is correct.
502 Q:-You wrote that? A:-I presume I wrote it sir,for I ubderstand that to be the facts in the case,and I understand that taking the book of doctrine and covenants,-I had better explain that at that time what is now known as the Hedrickites were not known as the Hedrickites,and they did not at that time propose that they would be governed by the book of Covenants nor did they propose that they would be brought under the discipline of the church. They would not accept the book of doctrine and covenants as a rule of faith and practice.
Counsel for the plaintiffs objects to the answer of the witness as well as the question asked the witness on the ground that the question is incompetent and immaterial and improper cross examination and moves the court to strike from the record the answer of the witness for the same reason.
503 Q:-Is it not a fact then Mr.Blair,that you knew these people afterwards called the Hedrickites and these differences with you at the time you invited them to stay with you at the conference in 1857? A:-
A:-Well I did not invite them. I was no part of the

conference. So far as that is concerned I was never identified with them.

504 Q:-Well that don't answea my question? Did you not know it? A:-Know what?

505 Q:-Know that these differences existed? A:-I knew some of them did and some of them did not. They were some of them believed that they were favorable to the re-organized church,and they came into that body

506 Q:-Is it not a fact Mr.Blair that there were some people you found at Independence,Missouri,that occupy now the same position that you did then withreference ~~with~~ this question of doctrine?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial and is not cross examination.

A:-Well,I can't tell you as to that sir,for there was no certain position that they accepted at that time,unless it was members of the church at large claiming to believe in the principles of the gospel, but they did not seem to have any definite views with regard to church government. Mr.Hedrick,at that time and afterwards too,related to me the whole matter of his coming into the church,-

Counsel for the plaintiff objects to the answer of the witness and moves the court to strike the same from the record for the reasons given in the objection to the question last objected to.

507 Q:-You may go on with your answer? A:-And his interview with parties at St Louis in regard to church matters,and he seemed to be all at sea at that time in respect to what constituted the doctrine of the church.

508 Q:-You had very different views as to what the gospel was at that time?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is not cross examination and is incompetent and immaterial.

A:-Yes sir,in my own estimation I had.

509 Q:-Will you state what the views were you held at that time? A:-What time?

510 Q:-The time you were at Zara Hemla? A:-So far as the views I held are concerned they consisted in faith in Christ Jesus as the Saviour of the world,and of the doctrine of faith,works,remission of sins and baptism for the remission of sins,and as a means of becoming identified with the body of the church,by the laying on of hands,and the resurrection of the dead,and eternal judjment,and these principles we understood then,-

511 Q:-Did you understand them to be,-what did you understand them to be? A:-Well if you will give me an opportunity I will tell you. I along with the church understood them to be the inherent or fundamental principles of the gospel.

512 Q:-Have you given all the principles of the gospel in what you have stated,as you regarded it at that time? A:-Yes sir we understand that to be what we denominate the first principles,-the fundamentals,so to speak.

513 Q:-What do you mean by the principles of the gospel, what do you mean further? A:-We understand that whatever pertains to the building up of a church in harmony with these fundamental principles to properly belong to these principles,-whatever pertains to the upbuilding of the church and the winning of the souls of men to everlasting salvation,and all of this redounds to the upbuilding of the church both in this world and the next.

513 Q:-That is what you understand by that? A:-Yes sir

it is simply,or rather we understand it is simply be ing the ~~mond ma~~means by which to render these first principles practicable or applicable and effective.

5I4 Q:-As a member of the re-organized church of Jesus Christ of Latter Day Sainsts do you claim that you are entitled as a beneficiary to an interest in the temple lot here?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,and not proper cross examination-and calling for an opinion of the witness.

5I5 Q:-Do you understand the question? A:-Yes sir,do you mean as a member of the church?

5I6 Q:-Yes sir,as a member and officer in the church? A:-Yes sir we claim that it should inure to the church proper.

5I7 Q:-Now do you make that claim because you believe in those principles of the gospel you have enumerated? A:-Yes sir,and what follows.

5I8 Q:-Will you answer my questions? A:-That is what I am trying to do as best I can.

5I9 Q:-Well you have not answered that one yet? A:-I have tried to do so. If I fail to answer your questions the failure to do so is not because of any intent on my part to evade the answers but is because of the fact that I fail to comprehend them.

520 Q:-Well go on and state how that is? A:-Well if an individual would embrace the gospel in all its essentials,or as we call it,embrace the first principles and accept them,and then was not to live in harmony with the order of the church laid down and agreed to by the body of the church to carry this out and render it effective,we should regard that individual as being unworthy,for he or she by that conduct would be repudiating the church and his profession of faith.

52I Q :-Is that your answer? A:-Yes sir.

522 Q:-What right,-what better right has the re-organized church then to this property down here in Independence over which this controversy has arisen,than any other body of people that believe substantially the same doctrine?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent and immaterial,calls for an expression of opinion only from the witness and is not proper cross examination.

A:-I understand that if they endorse the doctrine ~~an~~ and principles in their entirety as I have already stated that they would have an equal interest,but when they endorse a part of it and repudiate the rest of it,they thereby shut themselves out,-bar themselves out from participation in the benefits they might otherwise receive by active participation by such repudiation.

Counsel for the plaintiff objects to the answer of the witness and poves the court to strike the same from the record for the reason that it is an opinion of the witness,and not a statement of fact.

523 Q:-Now who is barred out,-the original church who did not endorse all the re-organized church does,or the re-organized church which does not endorse all the re-organized church did?

Counsel for the plaintiff objects to the question asked the witness for the reason that the same is incompetent and immaterial,and assumes a fact to be in evidence whcih is not in evidence,and calls for an opinion of the witness and is not cross examination

524 Q:-Answer the question? A:-What is the question?

525 QX-Who is barred out,-the original church which did

not endorse all the re-organized church does, or the re-organized church which does not endorse all the original church did? A:-We understand the original church in its inception endorsed all that led directly up to these principles, or all that these principles led up to, and which in their development were afterwards tauhgt to the church, and they were the natural outgrowths of the original fundamental principles.

526 Q:-Now then is that not an assumption of yours and of the original church,-I should say of the re-organized church? A:-Well it is a matter of history from 1830 up to 1834.

527 Q:-It is a matter of history, you say? A:, Yes sir most assuredly it is.

528 Q:-Now is it not a fact that you have stated there were revelations given since 1835 that have not been accepted as the law of the church prior to 1834? A:-Certainly.

529 Q:-Well if this doctrine that gives title to this property down here,-who is entitled to the property, the man that holds what the original church did from 1830 to 1834 or the man that takes up everything that has been added since that time? A:-In order to make myself understood I will introduce the statement made by our Saviour. He says the kingdom of God is like corn. When it first springs from the earth it is a little tender blade, but it comes into leaf and then into the stalk, and finally it is in ~~full bearing~~ the ear and in full bearing, in its maturity, and so we understand it was with the church. When it was planted first it was weak when it first sprang into leaf, and it had to go through the various stages of development. In the earlier stages of its existence it was in process of development and did not arrive at perfection until 1835, in fact it was in process of development until 1844, at the time when in the fullness of time the prophet and seer was taken away just as Christ Jesus was taken away when his work was done. All these various stages were necessary parts of its growth and development.

530 Q:-Well then was it necessary that the church was disorganized? A:-Yes sir I suppose so under certain conditions.

531 Q:-Now you have likened the process of the development of the church unto the development of a grain of corn,-now what becomes of the corn if it is cut down in its early stage of growth? If you cut the corn down will the stalk grow? A:-Well it was not cut down.

532 Q:-Well I understand you to say it was disorganized and is that not equivalent to being cut down? A:-No sir.

533 Q:-Well you have shown by your illustration that it was? A:-It was not cut off.

534 Q:-Well if it is cut off don't you have to have another planting? Don't you have to put new grains in the ground if you expect to reap crops? If you expect to see it arrive at maturity don't you have to replant it? A:-Well yes sir, of course, but in the case of the church to which your comparison goes, we claim that it was not cut off. There was a little bit of a cyclone passed over it and knocked it down, but it did not destroy the root of the matter. There was life ~~enough~~ enough left in the root to still support a vigorous growth.

535 Q:-I understood you to say there was no stalk from 1844 down to 1852? A:-Well you misunderstood me-for we claim that the church did exist though scattered and disrupted, but it was reunited at that time. It did not take on a specific organization again until

that time,but the elements of growth and life were there all the time,and under favorable conditions soon sprang into renewed life.

536 Q:-It existed in the body of the people? A:-Yes sir those that belonged to the church.

537 Q:-The church was disorganized? A:-Yes sir,temporarily.

538 Q:-Well if the church was disorganized,how did they belong to it? A:-They did belong to it but they were in a scattered condition. It would be like taking my watch apart and putting the hands in one place and the main spring in another,and scattering the various parts of the watch in different places.-

539 Q:-Well would it be a watch if that was done? A:-Yes sir it would be when it came back again together. Of course it would not be in a condition to keep time, it would however be none the less a watch on that account,and would perform its duty again when the various parts were re-assembled and adjusted.

540 Q:-Well I wouldn't go much on a watch like that when it would be in that shape? A:-Well,I would,-it would be a good watch when put together again.

541 Q:-Now you have used that as an illustration of the condition of the church from 1844 to 1852? A:-Yessir

542 Q:-Do you think it is a good illustration and an apt one? A:-I do.

543 Q:-Did you get the watch together when you re-organized? A:-Yes sir.

544 Q:-Didn't the greater part of the watch escape you? A:-Yes sir,a good deal of it did,but none of the essentials did,-it run all raght when it was got together again,-but that has nothing to do with this case I think.

545 Q:-Did you get the quorums that was in existence at the time that Joseph Smith died? A:-We got the essential features of it.

546 Q:-Did you get the twelve that Joseph Smith had at the time of his death? A:-I would like to answer ~~th~~ these questions in my own way without interruption.

547 Q:-Well,I am not interrupting you? A:-I fear you ~~wi~~ will and that is the reason I speak as I do now.

548 Q:-Well you answer my questions and I will not interrupt you,-I only interrupt you when it is evident that you are not answering them? A:-We entertained the idea that the distinguishing feature in the reorganization is the fundamental law by which it is established as an organization. We claim that we hold to that fundamental law,and therefore that we had the virtue,so to speak,of the churchYin that fact,and that constituted the vitality that is laid down in our own sacred record,which says "ye are my disciples if ye keep my commandments,and if not,ye are not." Now we claim that we do this,and by virtue of this obedience to the law and commandments our organization constitutes the church,[illegible] and others who claim to be the church and disregard these principles and commandments are not and cannot constitute the church,and are unworthy of membership in the true church,

549 Q:-Then if the part that went to Salt Lake were the main spring,to apply your illustration,they would be the church? A:-Yes sir,but you see we hold the main spring did not go there.

550 Q:-Well did the caps and cover of the watch go there A:-I do not pretend to tell you what portion went there. I believe that none of it got there.

551 Q:-Well,did the twelve apostles go to Salt Lake? A A:-Some of them did.

552 Q:-Some of them did? A:-Yes sir.
553 Q:-How many of them went to Salt Lake? A:-Of the twelve apostles?
554 Q:-Yes sir? A:,I think it was eight.
555 Q:- Well what became of the other four? A:-One of them went to texas,and one remained,-William Smith was one and Lyman Wight was another,and John E. Page was another.
556 Q:-How many of the twelve old apostles did you get in the re-organized church? A:-Of the apostles at the time Joseph was killed?
557 Q:-Yes sir? A:-We did not get any. We organized out of new material.
558 Q:-Were they not an essential portion of the church just before the death of Joseph Smith? A:-So long as they obeyed the rules and regulations and paid obedience to the laws of the church they were essential and when they violated these rules,regulations and laws they forfeited their rights.
559 Q:-Well did they do that? A:-They did not,-they forfeited their rights by their action.
560 Q:-What church council ever said they did that? A:-We did. We decided that in the re-organized church.
561 Q:-At what time was that done? A:-That was in 1852.
562 Q:-So that after these twelve violated as you thought the essential doctrines of the church,in 1852 you organized a body for the purpose of trying them for their transgression? A:-No sir not for the purpose of trying them.
563 Q:-That was not the purpose of the organization? A:-No sir.
564 Q:-How did it come,-by what authority was that organization attempted at that time? A:-It was attempted and effected.
565 Q:-Well by what authority? A:-We organized the church by command,and we tested the twelve by the rules laid down in the books which are recognized standards of authority in the church,-both in the primitive original church and in the re-organized church.
566 Q:-Did you summon them to appear before that body so organized? A:-No sir.
567 Q:-Well did they have any show when you tried them? A:-They were not there. They could have been there if they wanted to,for we hold our public conferences and everybody was invited to appear.
568 Q:-Did you notify the twelve to be there? A:-No sir.
569 Q:-Did you serve any notice on them at Salt Lake? A:-No sir.
570 Q:-Did you serve any notice on that fellow in Texas? A:-No sir.
571 Q:-You did not give any of them a chance to appear and defend themselves? A:-We hold our public conferences and the time and place of holding them are matters of public knowledge,and every person has a chance and an opportunity to be there if they see fit.
572 Q:-In that notice did you state that a lot of the scattered Mormons from the various sects,had gathered together,and were going to try the follows that had left the church,as they assumed it to be? A:-The kind of a notice that was given was that the church had been re-organized,and we were transacting all kinds of church business that might properly come up before them.
577 Q:-Did you give these follows that were cut personal notice of the fact that their action was to be tried by that conference? or gathering? A:-No sir.
574 Q:-Did you ever tell them who was to do this? A:-It was the re-organized church,-they could find that out from the notice of the conference.
575 Q:-Did you ever inform them that the body that was taking this action was a part of the men who had gone off with these fifteen different sects,who had

come together and had what they called effected a reorganization,and were going to try all the balance that did not come in with them or believe just as they did? A:-We told them in the notifications that went abroad in 1852 that it was a body of people that adhered to the original doctrines of the church as contained in the book of Mormon,the bible and the book of doctrine and covenants.

576 Q:-That is what they were told? A:-Yes sir,and they were informed in the same way as to where the meeting would be held and when it would be held.

577 Q:-What superior authority did they have over those other fellows? A:-They had it simply by reason of ~~th~~ the law.

578 Q:-Who has ever held that they who did not go with the re-organized church,did not adhere to the law as well as you did,-as well as they did who allied themselves with the so-called re-organization? A:-We did.

579 Q:-The one who went into the re-organization? A:-Yes sir,we determined it amongst ourselves.

580 Q:-So that a body of you from amongst these various sects got together and decided that all these other bodies were wrong and you were right? A:-Yes sir, that is decededly the way it was,and we tried them by the law and order of the church.

581 Q:-That action was taken upon this principle,-that the world belongs to the saints,therefore,the world is ours? A:-No sir,we were only taking action so far as the church was concerned.

582 Q:-Assuming of course that you were the church? A:-Yes sir.

583 Q:-Well who said you were the church? A:-We did and we brought the doctrine of the church to prove it.

584 Q:-That was the way it was,-you said you were the church,and you brought or producad the doctrine of the church to prove it? A:-Yes sir.

585 Q:-Did any body else say so? A:-Yes sir,and a great many are constantly saying so. They are today saying so by their action.

586 Q:-By what action? A:-By joining the church.

587 Q:-How many have said so? A:-Well that is hard to tell exactly,but probably thirty thousand have said so,who are now living.

588 Q:-How many are at Salt Lake? A:-Well perhaps there have been ten thousand of the old stock that have died off.

589 Q:-How many are at Salt Lake that do not say so? A:-Well I do not know how many of the old original stock are there.

590 Q:-Well how many of their successors are there? A:-~~X~~ There is probably one hundred and thirty thousand in Utah that are members of the church there,but there is not a great many of the old stock left there

591 Q:-Is it not a fact that it is your principle that in this particular case the tail has the right to wag the dog? A:-No sir,we claim that the whole,-

592 Q:-Well you have answered the question and that will suffice. Now you maintain that the law of the Lord ~~X~~ is just as you lay it down,and that the church of ~~wh~~ which you are a member and officer is the only church authorized to lay that law down and administer it? A:-We claim sir that the law of the church is contained in the bible,the book of Mormon and the book of doctrine and covenants.

593 Q:-And do you not claim that the Hedrickites do not practice it as it is laid down there? A:-Yes sir.

594 Q:-Nor the Salt Lake fellows? A:-Yes sir.

595 Q:-You claim that they are off also? A:-~~X~~ Yes sir.

596 Q:-And the Baptists? A:-Yes sir.
597 Q:-And the Campbellites? A:-Yes sir.
598 Q:-And the Presbyterians,the Methodists and all these other denominations? A:-Yes sir.
599 Q:-And the whole of every sect in the world? A:-Yes sir.
600 Q:-And you are the one,-the only one that is right on that question? A:-Yes sir.
601 Q:-And you number only thirty thousand,and claim to be the only sect that is favored by divine mercy and grace? A:-Yes sir so far as being organized into a body is concerned. We claim that we are in advance of the rest of the world,that is all.
602 Q:-And you have come here and preferred a claim to this temple lot here in Independence because of that claim? A:-Yes sir.

It being impossible to continue to complete the further taking of the depositions herein on this day, the further taking of the same is continued by the Notary Public taking the same until tomorrow morning at the hour of 9.30 oclock,the same being Tuesday the 9th day of February 1892 then and there to be continued at the place in that behalf first aforesaid. Now on this 9th day of February 1892 at the hour of 9.30 o'clock,A.M. the same being the hour to which the further taking of these depositions was continued on yesterday,come the parties hereto as aforesaid and the further taking of these depositions here was continued pursuantto adjournment,-

W.W.Blair,resuming the stand was further cross-examined by Mr.Southern as follows,-

603 Q:-Does the re-organized church claim all the property that belongs in any way to the church,-the old church,-the original church as it has been termed here from 1830 to 1844,or to the time of those divisions?

By Mr.P.P.Kelley,"We object to that question on the ground that the pleadings in this case show what we claim,and the question is incompetent and irrelevant and not cross examination."

By Mr.Southern,-

604 Q:-Answer the question Mr.Blair,if you can? A:-The church as far as any formal action has been had, made no claim of that kind,but,-did you ask for my opinion about it?
605 Q:-No sir I did not ask for your opinion,-I asked for the fact about,-that is what I want the fact if you know it,and if you do not know the fact you need not say anything? A:-Well that is it.
606 Q:-Well will you please answer the question I asked you,which is this,-Has the re-organized church ever claimed.and does it claim the right to discipline members of the old church who have at any time transgressed the laws and rules of action prescribed by the re-organized church?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,not cross examination,and not calling for the best evidence,but calls for an opinion of the witness A:-We claim the right to discipline,and especially to govern those who come into immediate fellowship, whether they were members of the old church,or whether they be new members,makes no difference.

607 Q:-Is there a single case in the records of the church to your knowledge in which it undertook to ~~publish~~ punish for polygamy or any other offence.the people who have since practiced polygamy at other places?

Counsel for the plaintiff objects to the questions asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and not cross examination,and assumes as a fact something that has not been proven in evidence.
A:-All we had to do with that class of individuals was in the way of repudiating and denouncing as undoctrinal and pernicious the teaching or practice of it in the church,and wherever we have met with the old membership,it has been the duty of the church and the voice of the church to denounce it in the strongest terms possible as being both undoctrinal, unscriptural and most destructive and pernicious in its effects.

608 Q:-Did the re-organized church so denounce it in 1852 at its first meeting? A:-Yes sir.

609 Q:-What did it do? A:-It provided,-it adopted formally by resolution and vote,the bible,book of Mormonand the book of doctrine and covenants as containing the law then binding in the church,and a committee was appointed to write and publish a book denunciatory of polygamy,which was done,and that was a pamphlet called the "Word of Consolation to the Saints." I think that was the title of it,-however it is a matter of record and may be found in the proceedings of that conference.

610 Q:-Were any of these people who were guilty of any of these offences,summoned before any of these conferences for trial? A;-No sir.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is irrelevant and immaterial,not cross examination,does not call for the best evidence,and the answer is objected to,and motion made to strike same from records for the same reason.
A:-No sir,there were none of our membership. It was well understood that we excluded all the parties that had any affiliation with us,or from any affiliation with us I should say,until they had cleaned themselves.

611 Q:-What do you mean by"exclude" when they are already out? A:-I mean exclude from our organization.

612 Q:-Well how could you exclude them when they did not belong to your organization? A:-Simply when they made application,or if we found persons that had become members of the church that still endorsed polygamy,they were removed for cause.

613 Q:-Such members were excluded? A:-Yes sir,and all who held to the practice of the doctrine of polygamy were not permitted to become members,and if by any chance they did become members they were immediately cut off when the facts were ascertained.

614 Q:-Did any parties become members of the re-organized church,who had prior to their membership practiced polygamy and other heresies that your re-organized church condemned? A:-Yes sir and they were excluded for it too.

615 Q:-They were excluded? A:-Yes sir.

616 Q:-Turned out of the church,do you mean? A:-Yes sir.

617 Q:-Persons then were excluded from the re-organized church if they had become members of the church,and had been guilty of these practices they were excluded after 1852? A:-Yes sir.

618 Q:-Was there any such who were cast out of the church for these things? A:,There were some who advocated and secretly practiced the practice of polygamy,-they advocated and entertained the doctrine,and I should say as we believed,practiced it secretly,and they were excluded.

619 Q:-Were they all excluded? A:-Yes sir,I may say that they were all excluded,but I had reference to some that fell more particularly under my immediate observation.

620 Q:-Do you state here that all who practiced these heresies and fell were all excluded? A:-Yes sir,so far as I know,they were.

621 Q:-Do I understand you correctly when I state your position thus,-when I state your testimony to be,-~~th~~ that you admitted into the church after the re-organization people who had practiced these tenets which your church forbids,-which the church forbade, that is,admitted people who practiced tenets which the doctrine of your church forbade? I ask you if I understand you correctly on that point? A:-There might have been so far as I am aware,admitted into the church,before we were conscious of their ever having been mixed up with polygamy,and that fact might not have developed until afterwards.

622 Q:-Did you not state a while ago that you did receive people into the church,knowing that they had practiced these tenets that were forbidden in the re-organized church,before they were admitted? A:-No sir.

623 Q:-You swear you did not make that statement? A:-I did not. I do not know of such a case sir.Remember I do not say that such a thing might not have occurred,-such might have occurred.-I only say I do not know anything about it if it did,still there might have been.

624 Q:-I understand you to say though that the re-organized church never undertook to try and discipline to condemn and to exclude men who did practice these tenets who never became associated with the re-organized church? A:-We condemned it everywhere,publicly and privately,and we barred out from our membership and communion all who adhered to it or countenanced it in any way.

625 Q:-Have you a method of trial for offenders in the reorganized church? A:-Yes sir.

626 Q:-What is the process followed in bringing them to answer for their violation of the laws of the church

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial and not cross examination.

A:-It is owing to the nature of the offence. If it is a personal offence as between individuals,the offended party is required by the law of the church as laid down in the new testament and in the book of doctrine and covenants to go to the offender and seek for a full understanding of the matters in question,and seek a reconciliation,and if he fails in the first effort,he is to take some faithful person with him,a member of the church with him,and make the second effort,and in case this second effort is also unsuccessful,he delivers the matter in question over to the ministry,the elders of the church for them to proceed according to the law of the church as contained in the new testament and the book of Mormon and the book of covenants. Where it is an infraction of the law or doctrine and order of the church,labors are sometimes had with the individual. That would be altogether or largely owing to the conditions. If the individual is far away action is taken at once to silence him if he is a minister,and we have methods of dealing through our conferences and counsels by which to bring them to time,to use a westernism,-to bring them to trial,and hear the evidence in the case.

627 Q:-Have you any methods of notice by which you notify him that charges are pending against him? A:-Yes sir.

628 Q:-Do you try him without notifying him,-try him and condemn him without notifying him that charges are pending against him? A:-Where he absconds,-where the member is a minister and absconds or puts himself beyond the reach of personal notification,he will be proceeded against as if he were present. That is only done in cases where it is discovered or ascertained that the accused is making an effort to keep himself out of the way of personal notification that is done,but not otherwise.

629 Q:-When delegates present themselves to your Conferences what credentials do you require from them?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immaterial and not proper cross examination.
A:-We require certificates from the body they represent duly officially accredited.

630 Q:-Is that an uniform requirement? A:-Yes sir.

631 Q:-There is no variation from that rule? A:-No sir, unless in the case they have lost their credentials then they can be identified by oral testimony or by witnesses of the fact, or by other,what we deem competent testimony,identifying them as the delegates who are entitled to represent the body they are c claiming to represent.

632 Q:-Do you have any other method of identifying delgates?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial and not proper cross examination.
A:-Well the rules on representation that we have provides,-or rather the work I should say that we have on that subject provides that this shall be done in that way. That is all that I am aware of,and if there is any other rule or method of procedure I am not aware of it, I am not aware that there is any other method provided than that I have mentioned.

633 Q:-I believe you stated in answer to a question asked you yesterday,that your claims for succession in the church as it existed at the time of the death of Joseph Smith at Nauvoo or Carthage,that is the church as it existed at Nauvoo at the time of the death of Joseph Smith,-are based on what you claim to be,-what the re-organized church claims to be,- a similarity of doctrine? Is that not the fact? A:-Yes sir.

634 Q:-Now do you have any other claim or claims for the succession aside from this claim of similarity of doctrine? A:-Well sir,that is owing to the sense in which the term "doctrine" is received. It depends very largely on that. The term doctrine in its broadest sense relates to the matter of teaching,and the word is derived from the Greek "Docco",which signifies to teach,and taken in that sense we do.

635 Q:-To recall your mind particularly to what was said yesterday,-the cardinal doctrine,-you related as I understood you,the cardinal doctrine to which the re-organized church adhered,as the gospel,and stated that those related by you were the doctrines of the church to which I have referred. Now then aside from those I ask you if there is any other claim to succession,and if so please state what it is.
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is irrelevant and incompetent,and is improper cross examination.
A:-We hold,as I stated yesterday, that the doctrines of faith and repentance,and baptism by immersion under the conditions provided for in the gospel teach-

ing,and the laying on of hands as set forth in the bible,the book of Mormon and the book of Covenants and the doctrine of the resurrection of the dead.of the just and the unjust,the doctrine of eternal judgment,that all the race should be rewarded according to their works by God,and that that constitutes what we denominate the first principles of the gospel. Besides these there are various other matters growing out of the organization of the church and these fundamental doctrines that are really germane to the question of doctrine,but constitute in some sense a part of the doctrine,-in a proper sense too I might say,-a portion of the gospel teachings.

636 Q:-Now then will you please state aside from these you have mentioned,what are the other grounds upon which the re-organized church claims succession from the church which existed at the death of Joseph Smith

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is not the best evidence,or does not call for the best evidence,is nor proper cross examination and is incompetetent,irrelevant and immaterial to any of the issues of this case.

A:-Similarity in respect to its organizttion,-that is,in respect to the organization of the church,-its officers,its ordinances,its ceremonies,the moral teachings and spiritual graces and gifts and blessings promised under the goapel order. We regard these as all being distinctive and essential parts of the church in its general work,-in its general development I should say.

637 Q:-Do you claim anything from the fact that Joseph Smith the president of the re-organized church is a son of the Joseph Smith who was killed at Carthage.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is calling for an opinion of the witness,is not cross examination,and is irrelevant and incompetent.

A:-We claim that is one feature growing out of the church work.

638 Q:-In what way,-in what respect? A:-From the fact that it is in harmony with the precedents contained in the bible and book of Mormon,pointing to that order of things,and that the prophecies and promises contained in the bible and book of Mormon and the book of covenants points to him as being the proper person to succeed in thr presidency of the church.

639 Q:-Does the re-organized church claim anything in the line of succession from any-revelation of Joseph Smith who was killed at Carthage,concerning Joseph Smith who is the present president of the re-organized church of Jesus Christ of Latter Day Saints?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent irrelevant and immaterial,and not cross examination and not the best evidence.

640 Q:-Do you claim that? A:-Do you claim what?

641 Q:-Do you claim anything for the succession by reason of the fact,or by reason I should say of any revelation of Joseph Smith who was killed as before stated,-concerning Joseph Smith the present president of the re-organized church?

Plaintiff objects to the question asked the witness on the grounds and for the reasons as set forth in the last objectiob.

A:-I do not understand the question.

642 Q:-I asked you ~~fi~~ if you remembered anything about a revelation,-? A:-Oh,yes,I remember the question now,-

643 Q:-The question or revelation referred to the matter

of succession,you understand that? A:-we claim that the law of the church contained is the book of Covenants declares the law of lineage as a governing principle in the transmission of office,-that is,the office of the first presidency of the church. The law that we cited yesterday is a law that we consider is established by the precedents contained in the book of Mormon,the bible and the book of Covenants.

644 Q:-Now you have answered that question,but the question I asked you is this,-whether you claim anything from revelation? A:-From revelation?

645 Q:-Yes sir,whether you claim anything from Joseph Smith,the original founder of the church who was killed at Carthage,by way of revelation establishing the first presidency in Joseph Smith,the present president of the re-organized church? A:-Yes sir.

646 Q:-Well if that is the fact what is it? A:-Those laws are given by revelation.

647 Q:-What laws? A:-The laws that I speak of governing lineage.

648 Q:-Well I will put the question this way,-do you claim anything by way of special revelation from Joseph Smith the elder,conferring or indicating that the younger Joseph Smith,the president of the re-organized church should be his successor in the presidency of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,and immaterial,not cross examination,and calls for an opinion of the witness and not the best evidence.

A:-What elders have you reference to?

649 Q:-Sir? A:-What elders did you have reference to?

650 Q:-Do you claim anything from the elder Smith,or Joseph Smith who was killed,from any revelation given to him with reference to the successiof of the president president of the re-organized church,Joseph Smith? That is the question. A:-The revelation of 1841,-January 19th in the 18th paragraph,in connection with other paragraphs,provided a residence for the first presidency of the church,and in the eighteenth paragraph specially that the head of Joseph's posterity,-which we claim to be his eldest son,-was to receive the same blessing.

651 Q:-How do you know that? A:-It says so,-it says that his blessing was to be put upon the head of his posterity after him,and that we regard as revelation.

652 Q:-Now sir I will ask you this question,-do you claim anything for Joseph Smith,the president of the re-organized church in favor of succession,from any ordination whcich he,Joseph Smith,received from his father?

Counsel for the plaintiff objects to the question asked the witness on the grounds and fro the reasons that the same is incompetent,irrelevant and immaterial,and is not cross examination.

A:-Yes sir,and by prophetic aapointment. We have it in the private journal of Lyman Wight,that he was so set apart by prophecy and blessing,directing that he would be his future successor.

653 Q:-Then the re-organized church makes a claim to succession in all or in part from the circumstances which you have just related? A:-That is one of the circumstances,-

654 Q:-That is one of the claims? A:-Yes sir,that is one of the proofs.

655 Q:-One of the claims of the church? A:-Yes sir. Now understand me,-the fact that Joseph the father had indicated by prophecy and prophetic blessing,that his son would obtain the same office that his father held in the church.

656 Q:-Is that a revelation? A:-It is a prophetic appointment.
657 Q:-Is that a revelation,-that is the question,-was it a revelation,and is the revelation by which that appointment was made a part of the book of doctrine and covenants? A:-I do not understand that question.
658 Q:-I asked you if that revelation by which that appointment was made,or in pursuance of which that appointment was made,-whether or not that was a part of the doctrine and covenants? A:-Yes sir,it was the revelation of 1841.
659 Q:-Is that the one in pursuance of which the ordination was made of which you speak? A:-Yes sir.
660 Q:-That is the one? A:-Yes sir.
661 Q:-Is that a part of the book of doctrine and covenants? A:-The revelation of 1841 is.
662 Q:-IS it not a fact that the revelation from which that ordination was made as written out by Joseph Smith was lost? A:-No sir,I do not know it to be a fact.
663 Q:-Well is it not a fact that the original revelation was lost? A:-Not that I am aware of.
664 Q:-When did the ordination to which you have just referred take place? A:-There was two ordinations,-the latter one took place from the testimony of witnesses, members of the church who claimed to know,-in 1844. That had been preceded however,by a similar prophetic blessing in,-I think it was in 1839,-it was when Joseph Smith was incarcerated over here in the Liberty jail.
665 Q:-Now was there an ordination of his son,the present president of the re-organized church,in pursuance of the revelation given in the Liberty jail? A:-Well no
666 Q:-Now the ordination which I am inquiring about,is that ordination of 1844 which you speak about,-it was just preparatory to his death? What was that? You have referred to it and I would like to know what it was? A:-It was just simply a prophetic blessing as I have already stated, I did not state it was a revelation,-I simply stated it was a prophetic blessing.
667 Q:-Now then was there a revelation preceding that prophetic blessing,and upon which that prophetic blessing,as you term it,was based? A:-Well whether it was based on what came in 1841 or '39 I could not say.
668 Q:-Or '44 you say,-39 or '44 you cannot say which it was? A:-No sir.
669 Q:-Now how was it that the re-organized church came to elect him to the presidency of the church? A:-The ordination to the presidency of the church at Amboy on April 6th 1860,-that was based first upon the law of lineage,and then the prophecy to which I have alluded.
670 Q:-What prophecy? A:-The prophecy in the book of Covenants in regard to the seed of Joseph,or the head of his posterity,and based furthermore upon utterances that were delivered by members in the church in Northern Illinois and in the state of Wisconsin as early as 1851.
671 Q:-Utterances that were delivered,-what kind of utterances? A:-Prophecies I should say that were delivered in the northern part of the state of Illinois and in the state of Wisconsin as early as 1851,and p prophecies that were delivered from that time ~~about~~ down along down till March 1860,all pointing to the fact that Joseph would personally come to the church and become its president,and he did come finally.

672 Q:-Were these prophecies of which you speak submitted to the quorums foe their action?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial and not proper cross examination.
A:-No sir.

673 Q:-Why not? A:-Simply because they came in the nature of prophecies,-not as revelations of law,-they simply came as prophecies,and such matters were not necessary to submit to the church for action.

674 Q:-As prophecies were they rules of conduct for the guidance of the church? A:-No sir,not finally. They were simply indicative of what would come to pass in the future,-like all prophecies that was their function.

675 Q:-Were those prophecies regarded as precedents or as authoritative in any way? A:-In some sense they were

676 Q:-In what sense? A:-In the sense of indicating,as we believed by the divine will,what was to be and what would be.

677 Q:-Now is there a law in the re-organized church which recognizes prophecies of that kind as indications of the divine will,from and by virtue of which action is taken on matters pertaining to the church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is not cross examination,is incompetent and immaterial and does not call for the best evidence of the fact sought to be proved.
A:-It is received in a similar manner to what we believe it was received in the days of Christ and his Apostles,and as it was received as explained in the book of Mormon.

678 Q:-Now that does not answer my question. My question is,does the re-organized church,as at present constituted,recognize such prophecies as rules of conduct, wholly or partially?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent.,irrelevant and immaterial,does not call for the best evidence of the fact sought to be proven,and is not proper cross examination.
A:-We regard prophecies of that kind as simply being an exhibition of the divine favor and divine will in respect to the matters treated of in the prophecy.

679 Q:-And as officers of the church are you ever governed by that,or is it the rule to be governed by them?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the seasons that the same is incompetent,irrelevant and immaterial,and not the best evidence and is not cross examination.
A:-It is the rule to goYin regard to those things as St Paul instructed in his time,when he says to get together two or three at a time and consider whether whether the prophecy is genuine or not.

680 Q:-Then it is a rule in the re-organized church,-that if the judgment of its officers is in favor of these, of this class of prophecies,that they thereby become effective in the counsels of the church and in the management of the church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial,and is not proper cross examination.
A:-The law,-the accepted law of the church is made the basis in all these matters. Prophecies coming that are in harmony,may or may not be accepted as a rule,or adopted adopted as a rule of

action. It is left to the body to decide whether or not that shall be the case, or as to what shall be done with them.

681 Q:-And are these prophecies made by parties who are not officers in the re-organized church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent, irrelevant and immaterial, and
~~[illegible]~~.
~~[illegible]~~
and is not proper cross examination.
A:-Sometimes they are.

682 Q:-And are they made sometimes by officers of the church, other than the first president?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is not cross examination, incompetetent irrelevant and immaterial
A:-Sometimes they are.

683 Q:-was the organization in 1852 based wholly or partially upon any such prophecies as you have referred to?
Counsel for the plaintiff objects to the question on the grounds and for the reasons as set forth in the last objection heretofore set forth.
A:-Prophecies delivered through different ones led up to the organization in 1852 of the re-organization based upon the law and usage of the church simply,- they were simply pointing forward to that event, or leading up to it.

684 Q:-Did not that conference of 1852 recognize the command of that revelation to re-organize?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that the same is incompetent, irrelevant and immaterial and not cross examination.
A:-Yes sir. We acted upon that.

685 Q:-What revelation was that?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as set forth in the last preceding objection to the question asked.
A:-It was a revelation given through a high priest named Henry H. Beam.

686 Q:-How was it acted upon? A:-The body of the people sat in judgment upon it, and sought for especial ~~evidence~~ guidance, and claimed that they as a body received evidence,-definite evidence as to its truth and authenticity.

687 Q:-Did the high priest Beems belong to the re-organization at the time he received this revelation?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is not cross examination and is incompetent, irrelevant and immaterial.
A:-He belonged to a branch of the church.

688 Q:-What branch did he belong to? A:-It was the branch I think at Zara Hemla, but it might have been the Yellowstone branch. I am not positive as to which branch it was he belonged to, but I think it was the Zara Hemla branch he was a member of.

689 Q:-To what quorums was that revelation submitted? A: A :-It was submitted to the whole body,-to the whole conference that was there at the time.

690 Q:-That is to say that revelation was submitted to the conference of 1852? A:-Yes sir, I think it was submitted first to a body that was present there, and then they came together again, and it was re-submitted to the conference. I do not know but that it was submitted twice or thrice, as near as the history goes to it, for they were in session there for several days before they attempted to procure or effect the re-organization in any respect.

691 Q:-Now do you refer to a body that was present at the time the revelation was given? A:-Yes sir.

692 Q:-What body was that? A:-It was a body composed of high priests and the seventy,or members of the seventy,-the elders,priests,teachers,deacons and members, as I understood it.

693 Q:-Was the organization of which you have just now spoken,-were these people of which you have just now spoken embraced in the organization at the time referred to,-had the organization been effected at that time? A:-At what time?

694 Q:-At the time this revelation was given? A:-I could not say that they belonged to any organization,excepting it was that branch or organization,and they had withdrawn,-well some of them had been associated with the Strangites,and they had withdrawn entirely, so far as any organization is concerned,and were standing seperate and alone.

695 Q:-And then these people who met in 1852,and organized the church,as you claim, met in pursuance of a revelation which they regarded as authoritative by a body of people assembled and constituted as you have just described? Is that the fact? A:-Yes sir,it came through that source.

696 Q:-Where did these people,-these priests and other officers,that were present when this revelation was delivered which was recognized in 1852,and from which this organization proceeded,get their own ordination or priesthood? A:-What is that?

697 Q:-Where did theses people that were met there together,as you have stated,get their ordination or priesthood? A:,They claimed to have received it in the days of Joseph the prophet and seer,-in the time before his death in 1844.

698 Q-Was the priest of whom you have spoken,who received the revelation,the highest priest in authority on that occasion.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is not cross examination,and is incompetent,irrelevant and immaterial.

A:-Yes sir.

699 Q:-Was there any requirement in that revelation with reference as to whom should preside over that conference held in 1852 when it should meet? A:-I do not remember now.

700 Q:-You don't know whether there was or not? A:-No sir,and I would not undertake to say unless I examined it,as it is a matter I have not examined recently

701 Q:-Well,who,in fact,did preside over that conference A:-Well,I would not undertake to state that either, for these are matters that I have not refreshed my memory upon. I was not present at the time as I did not unite with the church until 1857,and what information I have is derived simply from my reading and from common rumor or report.

702 Q:-What made that revelation the authority for the re-organization in 1857?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immaterial,and objection is made on the further ground that it is not cross examination.

A:-Because it came to the body of the people,-the little body of the people that were there present on that occasion,and after an examination of it,and seeking for what they denominated the evidence of God's Spirit of its tryth they became satisfied that it was the will of God,and I believe it is recorded there that it was the unanimous consent of the body to that effect,that it was the will of God,and his

Spirit that spoke.That in effect is recorded,I think.
703 Q:-Do you recognize this as the accepted language in the revelation given Mr.Deam,-"Behold,the pattern is before you,and it is my will that you respect authority in my church,therefore let the greatest among you preside at your conferences." Do you recognize that as pertaining to that revelation?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is not the best evidence,is not cross examination,and is incompetent,immaterial and irrelevant to any of the issues in this case.
A:-That was an historical account as given by one of the elders,and how far it copies the record I cannot say,for I have never compared them.
704 Q:-Is it not a fact that Elder Briggs presided at that conference? A:-I cannot say but what he did. I could not say exactly. The record book ought to show that.
By Mr.P.P.Kelley,-"We object to the question,for it is not cross examination,and does not call for the best evidence,and move that the answer be excluded from the record for the same reason."
By Mr.Southern.
705 Q:-How many were present if you know at the time that revelation was given? A:-I cannot say.
706 Q:-Do you say you do not know anything about that? A:-I say I am not prepared to say. In regard to that the record would be my only evidence.
707 Q:-Is there any record of the number that were present; Now my ~~conference~~ question does not refer to the time of the conference of 1852,but at the time and place that the revelation was supposed to be given? A:-No sir,I could not form any estimate as to the number that ~~we~~ were present. From the understanding that I have always had from reading,and likewise from information obtained from parties who were present it was at a meeting that was assembled,which was composed of the different officers and members of the various bodies, it was a body composed of those who had belonged to the original church,then claiming to be members of the church in its disorganized condition,and looking to a future organization.
708 Q:-So you are not able to state anything in regard to the number of people who were present at that conference whose judgment approved of that organization or of that revelation,I should say? A:-I have never thought ~~of~~ the matter,and I don't know anything about it,but there must have been quite a number present.
709 Q:-But,Mr.Blair,is it not an important matter as to whether or not one or a dozen or fifty men were present and concurring in that united judgment?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial,and not the best evidence or cross examination.
A:-No,sir,I don't think that the number present at the time would be a matter of vital importance. ^
710 Q:-Do you know the names of the persons who were present whose quality you speak of? A:-I can relate the names of some of them.
711 Q:-What is that? A:-As related in the history,and those with whom I have conversed I gather that there was Zenas H. Gurley,H.H.Deam,Jason W.Briggs.

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^ The quality of the persons present in respect to their faith and their purpose,to my mind,is the first requisite of all,and if that is all right the number that is present is not a matter of the first importance.

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7I1 Q:-Was not W.B.Ramsey there? R:-No sir,I think not. I can't remember of any one of that being in the church at that time.
7I2 Q:-Cyrus Newkirk? A:-Yes sir.
7I3 Q:-He was there? A:-Yes sir,I think he was one.
7I4 Q:-It was Rasey instead of Ramsey? A:-Yes sir,I think that name was amongst them. I think probably he was among them. I haven't examined these records minutely,but I think that name was amongst them.
7I5 Q:-There was also one Herrington? A:-John Herrington. Perhaps he was present. I think he was a member at the time. That is,he was in fellowship with them.
7I6 Q:-And David Powell? A:-I should judge he was present. Of course I don't know,but I should judge he was present.

By Mr.P.P.Kelley,-"All this is objected to because it is the rankest kind of hearsay evidence,and for the reason that the record which is the best evidence is now at this time in the hands of the counsel propounding the questions,who knows the record itself is the best evidence,and it is not cross examination"

ByMr.Southern,-

7I7 Q:-So then,is it one of the doctrines of the re-organized church that the priest who received the revelation that we have been inquiring into,and the people who were present and endorsed it as a revelation were authorized to go ahead and effect the re-organization?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is not cross examination nor the best evidence,but is incompetent,irrelevant and immaterial.

7I8 Q:-Was Samuel Blair present at the time then this revelation was accepted? A:-I could not say. I would have to appeal to the records toYanswer that question. The only means I have as to who were present is what has been derived from the record and from conversations had with some of the parties who were present.

Counsel for the plaintiff objects to the question asked the witness on the ground that it does not call for the best evidence,is not cross examination,and is irrelevant and immaterial,and moves the court to exclude from the record all the evidence of this witness on the question as to who were present at the time of the acceptance of the revelation referred to for the reasons alleged above and on the further ground that it it hear-say.

7I9 Q:-Now I will repeat my question. (Will the reporter read the last question asked the witness) Question No 7I7 is hereupon read to the witness,to which counsel for the plaintiff interposes the same objection as was made to the question at the time it was originally asked? A:-In what respect do you mean?

720 Q:-Is that not a doctrine of the re-organized church?
A:-They so understand it and act upon it.

721 Q:-Now where is the authority in the book of doctrine and covenants for that kind of a revelation endorsed in that way?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent,irrelevant and immaterial,and not the best evidence,and is not cross examination.

A:-The book of doctrine and covenants in connection with the book of Mormon and new testament,teach that God may reveal his will through the humblest instrument in the church,or even out of the church,and if the body accept it as being the divine revelation

they may act upon it.

722 Q:-Well Mr.Blair,may not the re-organized church, which claims to be represented as plaintiff in this case in hand,be entirely mistaken about an authority, — A :-What authority?

723 Q:-Please wait until I finish my question,-I asked you if it is not a fact that the re-organized church which is the plaintiff in this case,may not be entirely mistaken about the authority of this meeting to begin and effect the re-organization?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is not cross examination,ia incompetent,irrelevant and immaterial,calls for an opinion of the witness and hearsay.

A:-We think we were not mistaken.

724 Q:-You think you were not mistaken,-do you know you were not mistaken? A:-I say I think we were not mistaken,but that the proceedings had were in conformity with the teachings of the bible,the book of Mormon and the book of covenants. Now that is the way we view it,but of course in all things human people as a matter of course may be mistaken. The actions of humanity are always liable to err.

725 Q:-That is very true. Now then,is it or is it not,the fact that the authority of this revelation as recognized by the re-organized church depends on the judgment of those men who were there present when Deams announced the revelation?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and calls only for an opinion of the witness,and is not cross examination.

A:-We hold that they not only exercised their natural judgment,that they exercised their judgment at the time as best they could under the circumstances guided and instructed by the divine power to arrive at a true conclusion.

726 Q:-Their natural what? A:-Their natural judgment. That is what we believe,but at the same time they were guided or enlightened by the manifestation of the Spirit of God as was promised by Christ to his faithful disciples who would seek earnestly after the truth that guidance should be given them. That is our position,and we believe that as faifhful believers much guidance was given them as was promised by Christ and afterwards by St Paul when he says "He that is spiritual judgeth all things,and the things of God are known by the Spirit of God." We claim under these circumstances they had the evidence,and besides that they had the enlightenment that is given by the Holy Spirit to inform and enlighten their judgment and their minds.

727 Q:-How do the officers and men who conduct the affairs of the re-organized church know what you have just stated in your last answer to be the fact?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that the same is not cross examination,is incompetent and immaterial,and calls only for an opinion of the witness.

A:-There are two means or methods by which we judge, first,by what is accepted as the word of God,the next is by enlightenment,-the direct enlightenment of the Holy Spirit upon the mind and soul bearing witness and informing and enlightening the mind. The These are the means,and where the word and the Holy Spirit are in harmony we regard it as being conclusive evidence of the truthfulness of any matter.

728 Q:-Then you regard,or the re-organized church regards this revelation,and the judgment as based upon it as one of its fundamental laws?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent,irrelevant and immaterial,and calling for an opinion of the witness,and not proper cross examination.
A:-It was received as such and acted on as such.
729 Q:-Was there any such law in the church in I834?
A:-No sir.
730 Q:-There was no such law in the church in I834?
A:-There was not?
731 Q:-Was there any such a revelation in the church,-given to the church at any time between I834 and I844
A:-There was not.
732 Q:-Well now,if there was any authority for this action taken in I852 aside from this revelation,what was the use of this revelation? A:-It was simply an enlightenment,-it was a revelation given to the church indicating that the time had now come for them to act in conformity tiht the law and order of the church in the re-organization out of the material that was there at hand.
733 Q:-Did they make a president in I852,or at any of the subsequent conferences held prior to I860?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent and immaterial and is not cross examination,and does not call for the best evidence.
A:-Only in a sense of representative of the president.
734 Q:-Then from I852 down to I860 they went without a president such as they have now? A:-Yes sir,it had simply a president who stood as the representative of the president until the proper prenident of the church,who was to be the prophet,seer and revelator was called.
735 Q:-Upon or by what authority did it have a president like that? A:-Simply by choosing the hihgest authority present to preside.
736 Q:-And you used the highest authority present to preside? A:-We did generally,and I don't know but what we did always. Those who were greatest in authority presided.
737 Q:-Then why did Joseph W. Briggs become the president, the presiding officer of the conference of I852,if the highest officer present should preside. A:-I understand that Mr.Deam became defected before the final choice was made.
738 Q:-Then you understand it to be the fact,that subsequent to the revelation given through Mr. Deam for the re-organization in I852,and the time of that reorganization,he became defected,and therefore he was ineligible to preside? A:-Yes sir.
739 Q:-And so Mr.Briggs presided? A:-Yes sir.
740 Q:-Do you know that to be a fact sir? A:-That is my understanding of it.
741 Q:-What was the difference in these two dates? A:-I cannot tell you. I could not tell you unless I would appeal to the record. The record will demonstrate the difference.
742 Q:-Well,you may look at the record and state it? A:, (witness examines the record marked Exhibit N. and answers) Did you have reference to the October conference of I852?
743 Q:,Yes sir,-No I think it was the June conference? A:-It is the October conference,-October 6th I852. I see in here a resolution offerred and carried"Resolved that in the oplnion of this conference,the one holding the highest priesthood in the church of God is to preside and represent the rightful
of the high priesthood". and then

comes an amendment as follows,-"resolved that the highest authority amongst the priesthood represent the legitimate president as presiding authority"and I find here that Jason W Briggs presided over the Conference. The probabilities are that he was decided upon as the one holding the highest authority.

744 Q:-Of the people present there at that time? A:-Yes sir,that is the resolution,and the presumption is that they acted on that resolution.

745 Q:-Do you know whether or not Deems was excluded from the church prior to that time? A;-I think he was excluded at that time.

746 Q:,-What kind of an organization was there at that time? A:-At that time they only had branch organizations. They were just then taking the preparatory steps with a view to re-organizing the church and these were some of the preliminary steps that were being taken.

By Mr.Kelley,-"All the questions and answers asked the witness on this subject are objected to on the ground that it is hearsay,is not cross examination and is incompetent,and motion is made to exclude the same from the record for that reason."

A:-It is a matter of common report that Mr. Deam became defected and withdrew from the church.

By Mr.Kelley

747 Q:-These are questions,Mr.Blair,that require your own personal knowledge and if you have not personal knowledge do not answer them.

By Mr.Southern

748 Q:-Do you know,or can you give,-Is it not a fact that it is known in the councils of the church and to its officers,that at the Conference about which you have just spoken,and concerning which you have read some extracts,there was considerable difference of opinion as to who was entitled to preside,and that Briggs was finally selected,and that was the cause of the defection of Deam?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent and hearsay.

A:-I understand there was a difference of opinion,but this was the rule of action.

749 Q:-When? A:-From the time it was adopted,thenceforward,it was the rule of action for the church.

750 Q:,Now was that new rule of action taken in pursuance of a revelation? A:-No sir,not that I am aware of.

751 Q:-By what authority was it taken if it was not taken by the authority of revelation?

The witness on the plaintiff objects for the reason that the question asked is incompetent,irrelevant and immaterial,and not the best evidence,or cross examination,and calls for an opinion of the witness.

A:-The action of the conference.

752 Q:-Was it not simply an assumed authority?

Counsel for the plaintiff objects to the question on the grounds and for the reasons as given to the last question objected to.

A:-They acted so far as I can judge from the record on which they estemmed to be the law and order of the church. That is what they understood it to be and they acted upon it.

753 Q:-Was that the rule of action in reference to presiding officers from that time on up to the time when Joseph Smith the present psesident came to the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it does not call for the best evidence,is immaterial and irrelevant to any of the issues in the case,is not cross examination and calls for a hearsay statement from the witness,and his opinion.

A:-The rule that we attempted to be guided by,is that the hihgest person in authority present has the right to preside,but notwithstanding the fact that he has the right to preside,he must first be chosen by the body. That is the way we understand it,that notwithstanding he has that right,he must first be chosen by the body.

(Adjourned till I.30 P.M.)

784 Q:-Has the body the right to reject the highest officer? A:-Yes sir.

785 Q:-It has that right? A:-Yes sir.

786 Q:-And not let him preside? A:-Yes sir.

787 Q:-How is that? A:-For the reason that the law of the church requires that everything shall be done by common consent.

788 Q:-Would the body have the right to reject its first president? A:-Yes sir.

789 Q:-As its presiding officer? A:-Yes sir.

790 Q:-But as a matter of fact it never exercised that right,-is that not the fact? A:-Well I don't just at this time recollect of any such an instance,but the right is there nevertheless.

791 Q:-Upon what do you base that right? A:-The requirement in the law that the first president in the churh shall be appointed by revelation,and then he shall be chosen by the body,and be sustained and upheld by the faith and confidence and prayers of the church, therefore under that law the usage has been that when the presiding officer takes his place in a conference he does so upon motion and action of the body. Now you asked me for an instance where they had rejected the president or where this principle was brought into action.

792 Q:-Yes sir? A:-It was in the case of Sydney Rigdon who was one of the first presidents of the church, and there was an effort made to eject him from the first Presidency-but it was overcome,and he was still ordained.

793 Q:-He was not rejected? A:-Oo sir,but it was acting on that principle,for he might have been ejected.

794 Q:-Before I pass along over this line,I want to inquire of you what church or branch,or organization, if any,Mr.Briggs belonged to at the time he was made president in I852? A:-He had withdrawn from organizations.

795 Q:-Then is it not a fact that they elected a man for their President or presiding officer of that conference that did not belohg to any organization of the church? A:-He belonged at the time that the body that was then attempting to take steps looking to the future re-organization of the church. He was in the movement of the re-organization and may be said to have belonged to it.

796 Q:-If he belonged to that body was it nor only in the capacity of acting with that body for the purpose of effecting an organization? A:- It was just a promiscuous assemblage that had gathered together upon notification with a view to re-organization at some future time.

797 Q:-What branch did he belong to at any time proir thereto? A:-Well he was a member of the old church and a minister up to I844,and it is reported he united with the Strangite faction,and afterwards he united with William Smith.

768 Q:-How did he get out of William Smith's faction? Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the question calls for an opinion of the witness,is incompetent and immaterial and is not cross examination.
A:-He withdrew.
769 Q:-Is it not a fact that he did not withdraw but was expelled? A:-He withdrew first,and upon that withdrwal action was taken.
770 Q:-What was that action?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent and immaterial,does not call for the best evidence sought to be proven,and is not cross examination.
A:-I do not know now what it was,but I know that I belonged to the same faction then myself.
771 Q:-What faction was that? A:William Smith's.
772 Q:-William B. Smith's. A:-Yes sir.
773 Q :-Well you ought to know what was the reason of his withdrawal or expulsion? A:-I could not tell you unless I could see the record and saw just what the proceedings were.
774 Q:-You did not have anything to do with his withdrawal? A:-Yes sir,I did in common with the rest.
775 Q:-Dib you make a report as a committee on it? A:-I think I did.
776 Q:-What was he charged with?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial,and does not call for the best evidence of the fact.
A:-Defection.
777 Q:-Defection only? A:-It was what we denominated apostacy or defection.
778 Q:-To refresh your memory,I will ask you Mr.Blair, if any of the,-if in fact the William Smith church,you acting as one of the elders did not cut Jason W. Briggs off from the church? A:-After he withdrew we did.
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent,irrelevant and immaterial,is not proper cross examination,and does not call for the best evidence,and moves the court to strike from the record the answer of the witness on the above grounds.
779 Q:-Do you recognize the communication which I now call your attention to in a pamphlet entitled "Important disclosures,etc" printed at Springfield,Illinois in 1854,and the letter to which I call your attention particularly is written from Palestine,Stake of zion,and dated January 6th 1852,and entitled "official proceedings and excommunication of Jason W. Briggs". Now do you recognize that as a communication written by yourself? A:-This pamphlet in which that is published was printed after I withdrew from that faction. It was printed in 1854 and I never knew of the publication of it. That is the first time I ever saw that pamphlet.
780 Q:-Will you please examine the publication to which I have referred and read it,and see if it is accurately and correctly published? A:-(witness hereupon reads the communication referred to and answers) Colonel,the communication,-there was something of the kind written. There was something of the kind ~~wr~~ written,there is no question about that,and whether that is the identical one or not I would not undertake to say,for as I told you since it has been published I have had nothing to do with it. I have had nothing

to do with it or its publication in this form, but there certainly was something like that written, but whether that is the identical matter that was written is something I cannot tell you.

781 Q:-This was written some years ago? A:-Yes sir

782 Q:-How long ago was it written? A:-Well it is nearly forty years ago since that was written. It will be forty years this present year since that was written

784 Q:-Well then, using it for the purpose of refreshing your memory, I desire to ask you if you can explain this language which occurs in the pamphlet., "as to your revelation we consider it false as it proves itself to be", and I will ask you if you can now tell what revelation that has reference to?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immaterial, and not cross examination.

A:-I suppoes it has reference to one,-from my best recollection or remembrance,-that was given in '5I, purporting to have been given in November I85I, and it was my opinion at that time that that was the fact,-I can tell you that,-

Counsel for the plaintiff objects to the answer of the witness and moves the court to strike the same from the record for the reason that the same is irrelevant and immaterial, and not responsive to the question asked, and for the reason that it is improper cross examination.

785 Q:-Will you please explain what that revelation of I85I was?

Counsel for the plaintiff objects to the question on the ground that it is irrelevant and incompetent, not cross examination and not the best evidence.

A:- I cannot sir, because it is not in my possession, but some features of it I can remember, and that was with reference to young Joseph's being eventually called to the presidency of the church.

786 Q:-It is a fact that at that time you repudiated that revelation? A:, Yes sir.

787 Q:-You repudiated it and did not believe in it?

A:-Yes sir.

788 Q:-You did not think then as you do now? A:-No sir.

789 Q:-Have you changed your opinion since that time?

A:-Yes sir, I have. Most decidedly I have.

790 Q:-Are you sure that this reference here is not in reference to a revelation regarding the calling together of the people in I852 in regard to the re-organization? A:-Well now that revelation of November I85I was the only one that I know anything about that Jason W. Briggs professed to present to the church.

79I Q:-What I inquired about now is this,-is that not the revelation to which this reference I made here or quoted here refers? A:-Yes sir, that is the one purporting to have been given in I85I.

792 Q:-What is that for? A:-It pointed out the fact that God had not changed concerning the upbuilding of his church, nor in regard to the law to govern it, and stating the further fact that Joseph the son of Joseph the translator, seer and revelator, would eventually be called to the presidency of the church. Those were items in it I remember distinctly.

793 Q:-You remember that much about it? A:-Yes sir.

794 Q:-Was there anything in it with reference to polygamy?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is not cross examination and does not call for the best evidence.

A:-There were some parts of it that denounced polygamy as my memory serves me now.

795 Q:-In what kind of terms was it denunciatory of polygamy? A:-I t denounced it in very strong terms,-that is my recollection now.

796 Q:-Now is this the fact, or not the fact, that the ~~pur~~ purpose,-and if it denounced polygamy as you have stated, why it was not accepted by William Smith's organization?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and is not proper cross examination, and calls for an opinion of the witness.

A:-It was not necessary to accept it in that respect or because of that feature in it, for at that time ~~Wi~~ William Smith's denomination or faction was just as bitter against polygamy as was the revelation itself The faction that William Smith led was just as bitter against polygamy as the revelation itself and perhaps more so, so it was not necessary to accept it on that account.

797 Q:-At that time and prior thereto did you consider William Smith as the heir to the presidency?

Counsel for the plaintiff objects to the question asked the witness on the ground that the same is incompetent and not proper cross examination, and calls for an expression of the legal opinion of the witness, which the witness is not competent to give.

798 Q:-Did you at that time believe William Smith to be heir to the presidency and not Joseph Smith? A:-We did not believe him to be the heir to it.

799 Q:-Do you know whether or not that opinion was held? A:-I do not know that that opinion was held. I rather think it was not, but I could not say, for I had at that time only been identified with the church there a short time, and knew but little with regard to many of its points, at least with respect or in regard to church government, for I was, so to speak, a novitiate at that time.

800 Q:-Well then, if in the letter we have just referred to, you used this language, were you mistaken or not" "William Smith is the heir to the Presidency of the church, and your talk on that subject is useless and we fear that ere long you will learn that you are being instrumental in your own degradation". What do you say as to that?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immaterial and not cross examination nor the best evidence.

A:-Well answering your question as to whether I penned that or and answering,-or I should say as to whether or not that was my sentiment at the time that wa was written in 1852, I will say that I would not undertake to say. Edwin Cadwell, the man who joined with me in writing that, or in writing whatever was written, was an old member and minister and it was under him in the main that it was written, because, as I told you, I was only a recent member in the church, and it is natural that an old member and one occupying the position he did should take the initiative which he did.

801 Q:-You and he wrote it together? A:-Yes sir I presume so.

802 Q:-Did you sign what was written at that time? A:-It is probable I did, but whether it was that document or not I could not say, but whatever was written there at that time it is probable was signed by us.

803 Q:-Did you ever afterwards sign a document and certify that the above is a true copy of the original? A:-I could not say.

804 Q:-At that time did you sign your communications "Apostle of the Lord Jesus Christ"? A:-I could not say. At that time Edwin Cadwell and myself were understood to hold that relationship to that organization

Counsel for the plaintiff objects to the question asked the witness on the ground that is is incompetent,irrelevant and immaterial,and on the further ground that it is improper cross examination,and moves the court to exclude from the record the answer of the witness for the same reasons.

805 Q:-How were you appointed apostles?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as set forth in the last preceding objection.

A:-By William Smith and by the acceptance of the appointment,-by this and the action of the church there confirming the appointment.

806 Q:-What church do you refer to? A:-That faction there.

807 Q:-The faction of which William Smith was the leader? A:-Yes sir.

808 Q:-Was your apostleship recognized after you joined the organization to which you now belong? A:-No sir.

809 Q:-What was done about it? A:-It was repudiated.

810 Q:-What was done with it?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is not cross examination,and is incompetent and immaterial. A:-What was done with it?

811 Q:-Yes sir? A:-Nothing at all. It was not recognized, it was simply repudiated.

812 Q:-Were you again appointed an apostle? A:-Yes sir.

813 Q:-When? A:-In 1859.

814 Q:-In what church? A:-In the reorganized church I was.

815 Q:-Was your appointment in William Smith's church made by revelation? A:-I cannot say whether he claimed it was or not.

816 Q:-Was your appointment as an apostle in the re-organized church by revelation? A:-It was claimed to be.

817 Q:-It was claimed to be? A:-Yes sir.

818 Q:-Do you know whether it was or not? A:-I do so far as my own person was concerned.

819 Q:-And you know it was by revelation? A:-Yes sir,I was satisfied it was.

820 Q:-Who received that revelation?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent,irrelevant and immaterial,and not cross examination,and not the best evidence.

A:-The first prophecy in regard to it came through Edwin C. Briggs,and afterwards it came to myself personally.

821 Q:-At about what date?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as set forth in the last preceding objection.

A:-Well the prophecy in regard to it came in 1856,in November '56. It was somewhere in the latter days of November,and I had corresponding testimony to it,in regard to it,about the same time.

822 Q:-What was that testimony?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that

the same is incompetent,irrelevant and immaterial and not cross examination.

823 Q:-What was that testimony? A:-It was the testimony of the Holy Spirit.
824 Q:-Will you please state as nearly as you can how you recognized that authority.
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that the same is incompetent and immaterial and is not cross examination,and not the best evidence and calls for an opinion of the witness.
A:-What is the question?
825 Q:-I asked you to state as best you could,how you recognized that authority? A:-I do not know that I comprehend you. I do not know that I comprehend your meaning.
826 Q:-Well you had stated that you had testimony personally to the effect that you should be ordained an apostle about the year 1856,and that there was other and corresponding testimony to the same effect,and now I ask you what were the constituent features of that testimony? A:-It consisted of testimony that indicated to my intellect and inner consciousness, through the operation of a power outside and independent of myself,which gave me the comprehension and assurance that I was thus called. That is the way it appeared to me,and I do not know that I can indicate it to you any clearer than that.
827 Q:-Was that communication addressed to your judgment A:-It was addressed to my conscious,intellectual being.
828 Q:-To your intellect? A:-Yes sir.
829 Q:-And your intellect was convinced? A:-Yes sir.
830 Q:-And you formed no judgment thereof? A:-Yes sir.
831 Q:-Based on the effect that this power had on your intellect and inner consciousness? A:-Yes sir.
832 Q:-Now how was that judgment indicated? A:-I have been trying to tell you.
833 Q:-Was it indicated to anybody else afterward?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent and immaterial,not cross examination and calling for an opinion of the witness.
A:-Yes sir.
834 Q:-How,-in what manner? A:-By the same testimony.
835 Q:-What I want to get at Mr.Blair,is if the judgment you had in the matter you have stated was afterwards communicated to any body else? A:-In their presence?
836 Q:-Yes,or in any other way? A:-Yes sir,and they claimed they had the same or similar testimony.
837 Q:-Then what was done with it? A:-The case was presented by the,-to the church I should say,and by vote was adopted,-by motion and vote I was received.
838 Q:-You were received as what? A:-As an apostle and ordained according to the usages of the church.
839 Q:-That was done in accordance with the terms of a revelation,as you state? A:-Yes sir,it was a revelation or prophecy,whichever you wish it.
840 Q:-What is the difference between a revelation and a prophecy? A:-Sometimes we apply the term "revelation" as signifying those laws or commandments that are given as laws to govern the church,and all of them are revelations in one sense of the word,and a prophecy may be delivered through an individual and not take on the character of a law to the church,and that is just the way that came to me in 1856.

841 Q:-Now is it not a fact Mr.Blair,that in the church prior to the death of Joseph Smith,-that is prior to 1844,in the original or old church,-that all the revelations and prophecies pertaining to the office of apostles came through the President of the church A:-No sir.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that the same is incompetent,irrelevant and immaterial and not the best evidence,calling for an opinion of the witness and not cross examination,and moves the court to strike out the answer of the witness for the same reasons.

842 Q:-Will you please give an instance of its being indicated in any other way? A:-From the book of Covenants?

843 Q:-Yes sir,or from any other book,-I expect the book of covenants was the only authority on what was the law of the church prior to the death of Joseph Smith A:-Yes sir.

844 Q:-Well then use the book of covenants? A:-The case I allude to is a matter of history and one of revelation too,in which Oliver Cowdery,David Whitmer and Martin Harris were selected to select the twelve.

845 Q:-They were? A:-Yes sir,they were appointed to select the original twelve according to the spirit of revelation and wisdom that God scould give them on that occasion,and here is a revelation given to Joseph Smith,Oliver Cowdery,David Whitmer,etc. Here it is in the sixth paragraph (referring to Exhibit E. on page 172) it reads,-"Now behold I give unto you Oliver Cowdery and also David Whitmer,that you shall search out the twelve who shall have the desires of which I have spoken;and by their desires and their works ye shall know them:and when you have found them you shall show these things unto them. And you shall fall down and worship the father in my name ,and you must preach unto the world,saying,you must repent and be baptized in the name of Jesus Christ,for all men must repent and be baptized,and not only men but woman,and children who have arrived to the years of accountability". That is what is said there

846 Q:-You quote that to prove your position? A:-Yes sir, to sustain it.

847 Q:-Now is that not a revelation given to the first president of the church? A:-It tells in the caption to whom it was given.

848 Q:-Were they not of the first Presidency? A:-No sir.

849 Q:-They were not? A:-No sir,for there was no first Presidency established then.

850 Q:-Did not Joseph Smith occupy and perform the duties of that office? A:-He was the first elder,but there was no church organization then. There was no church organized at that time whatever;this was in June 1829 and that was before the church was organized, for it was not organized until April 6rh 1830.

851 Q:-That was before there was a church organized to pass upon these revelations? A:-Yes sir.

852 Q:-And yet was not the first Presidency,-were not Joseph Smith and Oliver Cowdery recognized by the Conferences or assemblies that convened as belonging to the first presibency? A:-No sir,for Oliver Cowdery was never one of the first presidency, Joseph Smith was,and Sidney Rigdon and Joseph G. Williams and others were.

853 Q:-Really was not the twelve you speak of appointed in pursuance of that revelation to Joseph Smith you speak of? A:-Yes sir,in a manner that is the fact.

854 Q:-In what manner,if there is any qualification to it

I would like to know what it is? A:-It was the result of that as a matter of course.. This says so,- the revelation was given to-Oliver Cowdery,Joseph Smith and David Whitmer concerning the twelve.

855 Q:-Is that not ~~that~~ in fact an instance of a revelation of the same character that you say you received and regarding which you have testified here? A:-~~I ca~~ I cannot say.

856 Q:-Don't you know it is? A:-I cannot say,for I do not know how Mr.Smith recei ved it. I know how I received it,-that is,I can state my own personal experience in regard to it. I can state my own experience in that regard,but when it comes to stating what Mr. Smith's experience was it is another thing,and I would not like to take upon myself the responsibility of stating how he received it,-whether it was by the Urim and Thummim or by prophecy,or in some other manner. It does not appeaa on record how he received it and I cannot enlighten you.

857 Q:-Well,we will pass that Mr. Blair.Do you recognize or can you give another instance,-if you cannot,just say so? A:-In respect to what,please?

858 Q:-Of a revelation or prophecy of the kind which you say you received in the re-organized church,and upon the basis of which you were made an apostle? A:-Is that in respect to prophecy?

859 Q:-Yes sir,prophecy or revelation which has been acted upon by the church? A:--Yes sir,it has been ~~ve~~ very frequent in the history of the re-organized church.

860 Q:-I am asking you now with reference to the church that existed prior to the re-organized church,-the church,the original church as it existed prior to the death of Joseph Smith in I8444 A:-I was not with it then.

86I Q:-Then how can you testify positively that the doctrines of the re-organized church and the doctrines of the original church are the same. A:-Simply by comparing what was written in the book of Covenants ,the book of Mormon and the bible and the history as found in the records and ordinances of the church.

862 Q:-That is your claim? A:-Yes sir.

863 Q:-Well upon examination don't you fall short of substantiating that? A:-No sir.

864 Q:-You do not? A:-Not to our own satisfaction we do not. We may not satisfy you but to our own satisfaction we substantiate every thing we claim.

865 Q:-Well now do you recognize this language as ever having been used by yourself at the time,-that is in that letter we have already referred to dated at Palestine,Stake of zion,January 6th I852? A:-What is it?

866 Q:-Well wait a minute abd I will give it to you. Here it is. "Apostacy is denying the ruling and legal president and spokes-man of the church,Mr.William Smith and Joseph Wood,holding all the keys,power and authority of God given any man on earth,and (that he) rejects them,rejects the Father and the Son whom they represent,and such men deny the faith and are therefore not to be heard by us." Do you recognize that as your language written in that letter?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is incompetent,irrelevant and immaterial,not the best evidence,not cross examination.

A:-As I stated when first asked regarding that letter,it is of such ancient date,and it was published without my knowledge or consent,I cannot say about it that. It has been over or nearly forty years since that letter was written,and I am not going to say that any particular thing is or is not in it. I cannot say what is in it.

867 Q:-You do not say it is not the language you used?
A:-No sir,I do not,neither do I say it is in it.
868 Q:-Would you state that was not in it? A:-I would not. I have just answered that.
869 Q:-Is it not a fact that at that time you believed that William Smith held the Keys?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,not cross examination and does not call for the best evidence,and asks for an expression of opinion ~~of~~ from the witness.
A:-Yes sir.
870 Q:-You believed at that time that William Smith held the keys,-is that what you say? A:-Yes sir,I did.
871 Q:-Well did you believe that on testimony or evidence?
Counsel for the plaintiff objects to the question asked the witness on the grounds and rof the reasons as set forth in the objection to the question last hereinbefor objected to. A:-No sir.
872 Q:-You did not believt it on testimony? A:-No sir,for we never claimed to have any testimony in regard to it.
873 Q:-Will you,in this connection,please explain what are "the Keys" in connection with the faith of the re-organized church?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is irrelevant and immaterial,not the best evidence not proper cross examination,and calling for an opinion of the witness.
A:-It signifies the right and authority to do certain things,-the same as if a man had a key and the right to go into a bank. It signifies right,power and authority,and that is the way we understand it.
874 Q:-Now I understand you to say that you re-constructed your religious views after 1852,and prior to your becoming identified with the re-organized c church,and abandoned some of the views which you had previously entertained?
Counsel for the plaintiff objects to the question for the reasons and on the grounds as are made to the last question objected to. A:-Yes sir.
875 Q:-What were they? A:-I do not ~~that~~ know that it was an abandonment of any of my religious views,but I changed my opinion in respect to the Presidency of the church.
876 Q:-And in respect to the Keys? A:-In respect to all that pertains or pertained to the Presidency. I once entertained the belief that William Smith probably,-and believed it too,-that he was the proper man to stand at the head of the church,and I came into the church under that administration,and believed it in all sincerity and earnestness to be correct,but on further investigation I found that the order of the church was against him,and against that claim,and as a consequence I repudiated it,and withdrew from the church or faction that acknowledged him as its head.
877 Q:-Well now if you had been put on the stand at that time,Mr.Blair,would you not have testified that that church held the same doctrines and tenets as the old church,and was entitled and did have the succession to the old original church?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is not ~~cross examination~~ proper cross examination,is irrelevant and immaterial,and calls for the opinion of the witness.

I knew nothing about what it did hold except in relation to first principles,-that is in relation to the first principles of the gospel.

878 Q:-Would you not have testified that it held the same as the old church at that time? A:-No sir,I would not.

879 Q:-You believed that ? A:-Yes sir,but I would not have testified to it,for I always claimed to know enough not to testify to that which I knew nothing about.

880 Q:-So then your claim is that you know more about it now than you did then? A:-Yes sir.

881 Q:-That is your claim now? A:-Yes sir.

882 Q:-Now might it not be the case that in a few years years from now you would find out that you had learned more than you know now,and you would testify that way? A:-What way?

883That you would know more a few years from now than you do now about this matter,and would testify that way,-that is,you would change your testimony then to suit your increased sphere of knowledge?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immaterial,is not proper cross examination and calls for an opinion of the witness only. A:-No sir.

884 Q:-Now then at the time you wrote this letter to which reference was made that the church you belonged to was your church? A:-Certainly,that was what I believed to be the church.

885 Q:-Well now is it not a fact that at the time you hold these other views of which you have spoken here that polygamy was taught in Joseph Smith's church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that the same is incompetent,irrelevant and immaterial,and is not cross examination.

A :-I do not know sir,-In Joseph Smith's church?

886 Q:-No sir,in William Smith's church? A:-No sir it was not,it was utterly repudiated both from the platform and in private. No sir polygamy was never taught in that faction,but on the contrary it was utterly repudiated.

887 Q:-Were you acquainted with,-particularly acquainted with the history of the re-organized church? A:-was I? Iam by reading. I suppose you mean from 1851?

888 Q:-Yes sir? A:-Yes sir,by reading and by personal contact I may say I am well acquainted with it.

889 Q:-Are you acquainted with the history of that organization by Tullidge? A:-The history as given by Tullidge?

890 Q:-Yes sir? A:-Yes sir. He claims to give some of the outlines,but his alleged history was never accepted by the re-organization.

891 Q:-Is not the charge of polygamy made in that history as against William Smith's branch?

Counsel for the plaintiff objects to the question on the ground that it is incompetent,irrelevant and immaterial,not the best evidence and not cross examination.

A:-There is something to that effect in what purports to be Tullidge's history.

892 Q:-Is that history not published by the board of publication of the re-organized church? A:-It was.

893 Q:-Did they not by such publication give credence to that charge? A:-No sir,they never did. There was certain parts of it that they never endorsed.

894 Q:-You state that as a fact? A:-I do.
895 Q:-Then do you say that the board of publication of thr re-organized church publishes things which they know are not true? A:-They do not publish that as an authorized work of the church. It was published simply fot what it purported to be,-Tullidge's history, nothing more and nothing less.
896 Q:-They put it forth as Tullidge's work? A:-Yes sir.
897 Q:-Were you one of the members of that board? A:-Of the board of publication?
898 Q:-Yes sir? A:-Yes sir.
899 Q:-Does the board of publication do its work in that way,-does it proceed in that way,-publish extracts against people of the same faith and order that are not true? A:-It claimed to be a matter of history and Tullidge embodied it in the work,but it was published by the board of publication on its own merits simply,and without the approval of the church. The board of publication publishes many things that are not authorized by the church,and they are published simply and solely for what they are,or what they purport to be.
900 Q:-Did the board of publication not employ Tullage to write that work? A:-He wrote it years before with the exception of the latter part of it.
901 Q:-I refer now to the history of the re-organized church? Dib they not employ him to write the history of the re-organization,-that is employ Tullage to write the history of the re-organization? A:-No sir. He had a work that was published in Utah,called the "Life of Joseph the Prophet",and he brought it to Plano,-I do not now remember the year,-and wanted to dispose of it and failed to do so. He finally remodeled it,and it was accepted simply and published as Tullage's views and Tullage's work,and not the history of the re-organization as accepted by the church,for the church never did accept it at all. At that same time we had a man appointed as historian for the church and he was collating material to publish the history of the church.
902 Q:-Well was not the history of the re-organization a part of that work? A:-They got in some things that were a part of the history of the re-organization.
903 Q:-"They" did? A:-Yes sir.
904 Q:-Where did they get it? A:-From various sources. They copied some from the writings of zenas H.Gurley
905 Q:-Now when did you become a member of the re-organized church? A:-In the spring of 1857.
906 Q:-By or under whom were you baptized? A:-Zenas H. Gurley,senior,baptized me.
907 Q:-At what time? A:-I do not remember the exact date at this time,but it was in the first days of April. Probably about the eighth I should judge. It was aboud the seventh or eighth;the record will show.
908 Q:-Of what year? A:1857.
909 Q:-How many people,-if you remember,-were members of the re-organized church at the time that you first became connected with it?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is not cross examination,is incompetent,irrelevant and immaterial,and does not call for the best evidence.
A:-I really could not say,but I do nor suppose over fifty or sixty.
910 Q:-Not over fifty or sixty,you say? A:-No sir,not

that were identified with it at that time.
9II Q:-That was about the number? A:-Yes sir,I do not know really how many there were,but I think that was about the number.There might have been more.
9I2 Q:-There was not as many as one hundred? A:-I should not think so.
9I3 Q:-Well that was in I857? A:-Yes sir,in the spring of I857.
9I4 Q:-How many members did the church contain at,-in I860?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial,not cross examination and not the best evidence.
9I5 Q:-If you know you may state how many members the ~~chu~~ church had in I860? A:-I could only give you an approximation as to the number.
9I4 Q:-Well give me an approximation? A:-I should judge three hunderd. That is in the spring you mean.
9I5 Q:-Yes sir? A:-Yes sir,I should judge about three hundrud.
9I6 Q:-Did they have the same rights as the present church with twenty five or thirty thousand has? A:-well,yes sir, the same rights,-if I understand you. We were seeking to build upon the principles contained in the bible ,the book of Mormon and the book of Covenants,and upon the presentation of Joseph Smith and his ordination. We considered the church then in a more perfect organization than it had previously been,for before that time there was nothing but a temporary, representative president.
9I7 Q:-Then if the re-organized church at the present time has a right to this property in controversy here in Independence,did the church as it existed in I857 when you had but fifty members have a right to it?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is not cross examination,and calls for the legal opinion of the witness and not for a statement of the fact,and is incompetent,irrelevant and immaterial.
A:-Our understanding is that the property of the church belonged to the church--that is it belonged and belongs to the church who have adhered to ~~the practice~~ and practice the doctrine and ordinances of the original church.
9I8 Q:-Well that is not an answer to my question Mr. Blair. My question is,did the church,in I857,when you became a member of it,have the same right to the property here in Independence that the re-organized church has now?
Counsel for the plaintiff objects to the question on the grounds and for the reasons as stated in the last objection.
A:-If you want my opinion about it I can give it.
9I9 Q:-Well give it? A:-I will say yes.
Counsel for the plaintiff moves the court to strike from the record the answer of the witness on the ground that it is an opinion of the witness.
920 Q:-Dib it in I860 have the same rights? A:-Yes sir.
92I Q:-It did? A:-Yes sir,that is my opinion about it.
Counsel for the plaintiff moves the court to strike out the answer of the witness to the two last questions on the ground that they are an expression of the opinion of the witness,and incompetent,irrelevant and immaterial,and the questions to which they were answers were not cross examination.
922 Q:-I will ask you this question,-if to your knowledge since you have been a member of the re-organized church,-since you became a member of the re-organized church in I857,and from that time down to the present time,being as you are now are in a high position in the church and a member of the board of publication and a high counselor,-a first counselor

I should say,-any individual from that time down to the present time styling himself a member of that church,and being now a member of the re-organized church,ever contributed one cent towards buying the property in litigation in this case?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is incompetent,irrelevant and immaterial,not cross examination and not the best evidence.
A:-There are scores and hundreds of the old members of the church dating back from before the time of its organization in 1830,that have since become identified with the organization,and some of the leading moneyed men did,among whom I may mention Ezra Thayer and I think William Marks was in the church prior to that. We could identify numbers more that I have been personally acquainted with who did.
923 Q:-Well I have no objection to your identifying as many as you please,and I think you have identified three? A:-Ye s,sir and there was Authur Milligan ~~an~~ amongst them and Catherine Salisbury.
924 Q:-Is there any more? A:-Well sir you will have to let me put on my thinking cap,for that is going back a good way in the history of the world,and these names cannot be called up in a moment. There was Josiah Butterfield. Well sir I would not undertake to state definitely who they were unless I could go over the church record,and get the names.
925 Q:-Did any of these you have enumerated,-that is any of the parties whose names you have enumerated,pay anything towards the purchase of the property here in litigation? A:-I don't know anything about it,but I know they were members of the church.
926 Q:-Dib any man who is now a member of the re-organized church pay a cent towards the purchase of that property?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immaterial and not cross examination.
A :-I would not undertake to say unless I first examined the record of names.
927 Q:-Mr Blair,now,about how many,-remember I do not ask you to state accurstely,-but in the neighborhood of how many of the members of the old church belonged to the re-organized church at the time of Joseph Smith's ordination? A:-Young Joseph's ordination?
928 Q:-Yes sir,the ordinatioh of young Joseph? A:-I could not give you anything very definite as to that,but I know of a good many.
929 Q:-Well I would like to know your estimate as to the number,you can say one hundred if you please? A:-Well possibly one half,-well I should say there was more than one half of the membership of the church at that time were members of the old church.
930 Q:-About what proportion of the membership of the re-organized church now were members of the old church? A:-I could not say. I could not tell-you that,for a great many members of the old church who united with the re-organized church since 1857 have died. They were generally old people,-they would be old people in the very nature of things,and a great many of them have died since then,but notwithstanding that fact there are a good many of the members of the old church who are today members of the re-organized church.
931 Q:-Is there as many as a thousabd? A:-I would not venture an opinion in the character of a positive or approximate statement but without investigating the matter I should say that there probably is as many

as one thousand. Somewhere in the neighborhood of a thousand I should say.Possibly that estimate though is too much.Probably that is too great an estimate, for upon reflection I am inclined to think that is too much,but still it may be even more than that,for I could not pretend to say as to the number.

932 Q:-Who at the present time composes the twelve apostles of the re-organized church? A:-Alexander H. Smith;Joseph F.Lambert;T.W.Smith;J.H.Lake;James Caffall;Heman C.Smith;William H.Kelley;Gomer T.Griffith E.C.Briggs and Joseph Luff.

933 Q:-That composes the twelve at the present time? A:-Yes sir.

934 Q:-Is there twelve now? A:-No sir there is only eleven at the present time.

935 Q:-Did the re-organized church ever have twelve? A:-No sir,not at one time. Not that I am aware of. It might have had before I became identified with it but if it did I am not aware of it.

936 Q:-How many did the old church prior to 1844 have in that quorum? A:-Well there was a number called to be apostles that were not enrolled in the quorum.

937 Q:-Did they not keep up the quorum of twelve? A:-No sir. There was times when there would be vacancies.

938 Q:-Well did they not fill these vacancies? A:-They filled it according to history. When the quorum was first organized they filled it I believe,but there was vacancies occurrung now and then and sometimes the vacancy remained unfilled for some time.

939 Q:-They uniformly filled them did they not? A:-They filled them from time to time.

940 Q:- Was there not a full quorum at the death of Joseph Smith? A:-I am not positive as to that.

941 Q:-Is,or is not,the quorum of twelve an important part of the organization of the re-organized church? A:-Yes sir.

942 Q:-Whether it is full or whether it is not filled,it is an important part of the organization of the re-organized church? A:-When the church is fully organized it is the one quorum,-one of the most important quorums in the church.

943 Q:-Well then,if the re-organized church has never had a full quorum of twelve,and the old church had such a quorum and kept it filled as nearly as it could, then the re-organized church is not like the old church.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is irrelevant and immaterial,not cross examination and calls for an opinion of the witness.

A:-We think we have kept it filled like it was in the old church as nearly as possible,-all things being considered.

944-Q:-So that is as near like it in that respect as you have been able to get like it,is it? A:-Yes sir.

945 Q:-But it is not like it all the same? A:-Well as far as the possibilities are concerned we think it is like it.

946 Q:-Well why can't you fill up the twelve? A:-Simply because it has not been indicated.

947 Q;-Now how is the twelve indicated? A:-Sometimes by prophecy.

948 Q:-Prophecy or revelation? A:-Either way,-prophecy or revelation.

949 Q:-Either way you say? A:-Yes sir,-sometimes,-some of them,-Briggs---I really don't remember now how that was,but I have told you in regard to myself.

950 Q:-I know you have but I would like to know something about the rest of them? A:-And in respect to Edmund C. Briggs I would not be positive just as to how he was called.

951 Q:-You do not know how that was? A:-No sir. The history records that

952 Q:-That is all you know about the way they were selected? A:-No sir,for there were others that were indicated through or by means of a revelation through Joseph the president of the church. There was the revelation of '73---

By Mr.P.P.Kelley,-"Well we think it is time to object to this method of examination, we object to the questions asked on this matter on the ground that it is immaterial to any of the issues of this case,and not cross examination,and move to strike out the answer of the witness from the record for the same reason and on the grounds that the record-which is the best evidence of the fact sought to be proven is in the hands of the counsel propounding the question and ought to be submitted to the witness before he is required to answer the question,and we object to the answer because it is not the best evidence,and is immaterial in any event."

By Mr.Southern--

953 Q:-Now then in reference to this matter of the constitution of the twelve,has the twelve in the re-organized church been appointed in the same way as the twelve were appointed who were in existence in the original church at the time of the death of Joseph Smith in 1844? A:-Yes sir.

954 Q:-Will you say they have been appointed in the same manner? A:-Yes sir,we think it identically the same manner.

955 Q:-Well was not the doctrine up to the time of his death that the twelve must be appointed by a revelation through the president?

Counsel for the plaintiff objects tot he question asked the witness on the grounds and for the reasons that it is immaterial and incompetent and not the best evidence

A:-No sir.

956 Q:-Will you state the names of some of the original twelve who were not appointed in that way? A:-The first quorum of twelve were selected by Martin Harris,David Whitmer and Oliver Cowdery,according to the spirit of the revelation of God,-that is according to the spirit of the revelation that God should give unto them.

957 Q:-Was that not done by means of a revelation through Joseph Smith? A:-It was in pursuance of a commandment delivered or given in 1829,nearly six years before the quorum was called,and before there was any church organized.

958 Q:-Now will you please state what the functions of the quorum of twelve are? A:-It is in relation to the preaching of the word and the disseminating the gospel abroad to all the world,-first to the Gentiles and then to the Jews,and labor in the midst of the various congregations abroad in the church,outside of what we denominate the stakes. Their ministry is in respect to all spirithal affairs,-the same substantially as it was in the days of Christ and the apostles,giving to them substantially the same powers in proclaiming and preaching the word that was given to the twelve apostles by Christ.

959 Q:-That was their duty and function? A:-Yes sir. That is the way I understand it.

960 Q:-Did their functions also include the temporal affairs of the church? A:-Only to watch over them and see that there is no mal-administration. They are not the custodians nor the distributors of the temporal affairs of the church,but they simply had a supervisory over-sight over the affairs of the church in general.

961 Q:-Is it one part of the duties of the twelve in the re-organized church to take steps with reference to tithing? A:-Simply to see that it is properly talked abroad throughout the church and seeing that those

who have the custody and distribution of them perform their functions in an orderly, proper manner.

962 Q:-Was that course taught in the old church? A:-Yes sir, we understand it was. We understand that the twelve in the church had nothing to do except it was by authority of some special act of the Conference in gathering, holding or distributing funds, and the only power or authority they had was what was delegated to them by the Conferences or General Assemblies.

965 Q:-Do they, or did they not have authority to execute the law of tithing? A:-We hold that the term "execute" as written there, signifies they are to perform the teaching, and do that part of the execution of it that is delegated to them, and the bishopric is to do the rest of it,-that is the bishopric is to do their part in holding and distributing it.

964 Q:-Is that not in accordance with the revelation of 1861? A:-We never so understood it.

965 A:-You have never so understood ,-what about the church? A:-The church has never so understood it.

966 Q:-Do you recognize what I now shall show you in Exhibit J, section 114 entitled "revelation given October 7th 1861". Please read that . A:-"In order to place the church in a position to carry on the promulgation of the gospel, and as a means of fulfilling the law the twelve will take measures in connection with the bishop to execute the law of tithing; and let them before God see to it that the temporal means so obtained is truly used for the purposes of the church and not as a weapon of power in the hands of one man for the oppression of others, or for the purpose of self-aggrandizement by any one, be he whomsoever he may be. As I live, saith the Lord, in the manner ye execute this matter, so shall ye be judged in the day of judgment."

967 Q:-Is that the law of the re-organized church? A:-Yes sir.

968 Q:-At the present time? A:-Yes sir.

969 Q:-Was that the law of the old church prior to 1844? A:-We understand the same principles held good there.

970 Q:-If it was the law of the old church, and the re-organized church practices and has adopted the laws of the old church, why was this revelation given in 1861 A:-Simply as a reminder.

971 Q:-Does it so state? A:-It was so understood, and we find abundant prophecies in the whole scriptures in the bible, and some of them using the very same words

972 Q-Then it seems to be necessary in the re-organized church to be reminded very often of its duties? A:-Precisely,-you have stated the situation accurately sir. It is just as it was in the days of the apostles, for as Paul says "let him that stole steal no more". You see in those days people had to be reminded of their short-comings, and the people of the present are no exception to the rule that held good in his day.

973 Q:-That is a very apt quotation and I will apply it by asking you if there is any authority in Paul or any where else which authorizes people, or an attempt on the part of a church to take property that they never paid anything for? A:-Not that we are aware of but I make that quotation to show that it is evident that there was some thieves amongst them in his day.

974 Q:-Well we will pass that but there-is one or two more questions with reference to the twelve that I desire to ask you. Vas any of the twelve that you have described,-or eleven I believe it was,-was there at any time any of the twelve in the first twelve of the re-organized church that were members of the twelve that existed in the old original church at the time of the death of Joseph Smith?

A:-No sir,not that I am aware of.
975 Q:-Has it ever had a son of any of the original quorum of twelve in its quorum of twelve? A:-I do not think so,except in the person off Alexander Smith,who was a son of the chief apostle of the church.
976 Q:-Where is he now? A:-He was in Northern Illinois at last accounts.
977 Q:-Is he a member of the re-organized church? A:-Yes sir and a member of the quorum of twelve.
978 Q:-Was his father ever a member of the quorum of twelve in the old church? A:-No sir,not of the quorum that was organized in 1886.
979 Q:-Do you know Mr.Blair,what become of the quorum of twelve that existed at the time of the death of Joseph Smith? A:-well history records the fact that Yyman Wight went to Texas,carrying quite a large section of the church with him. He remained there quite a while when he died,and that body of people most all of them came back and united with the re-organized church.
980 Q:-That is what history-you say,records of Lyman Wight? A:-Yes sir.
981 Q:-Well what about some of the others? A:-Well William Smith was one of that quorum,and he abandoned Brigham Young and his followers at Nauvoo,I think in 1844,but possibly it was not until 1845,carrying off some of the people with him also,-not a great many, but some of them afterwards consorted with him as their leader. Then there was John E. Page who was also another member of the quorum,and I have had it from his own lips,and we get it from the general history of the church also,that he abandoned them likewise at Nauvoo,and united with James J. Strang a and remained with that faction for a short time,and the others were reported to have gone to Utah. Of the ones that went to Utah I was not personally acquainted with but one.
982 Q:-There was only three that did not go west? A:Yes sir that is my information.
988 Q:-The other nine went west? A:-Yes sir,so I am informed.
984 Q:-Went west with what is known as the Utah church? A:-Yes sir.
985 Q:-Were any of these twelve alive at the time the re-organized church was organized in 1852? A:-Do you mean Lyman Wight,William B. Smith and John E.page and the ones that went west with Brigham Young?
986 Q:-Yes sir? A:-Yes sir,part of them were alive,but I do not think they were all alive.
987 Q:-You do not think they were all alive? A:-No sir,I think Willard Richards died about 1850,and he was one of that quorum.
988 Q:-Well now Mr.Blair,if these members of the original quorum of twelve were alive at the time of the organization of the re-organized church in 1852,why were they not entitled as members of that quorum to their place in the original church,if that church was a re-organization,or was the same as the old church? A:-They were not entitled to recognition simply because they abandoned the doctrine and faith of the old church on some of its vital points,-in other words they had apostatized.
989 Q:-Had William Smith and this man that went to Texas, I forget his name? A:-Lyman Wight.
999 Q:-Yes sir,-had they abandoned the doctrine of the old
church also? A:-Yes sir.
991 Q:-Had they abandoned the original church's doctrine also? A:-Yes sir,they had.

992 Q:-What tribunal ever tried them and decided that t they had abondoned it? A:-Abondoned the doctrine,-what tribunal ever tried them and decided that question?
993 Q:-Yes sir? A:-I don't know that any did.
994 Q:-Who decided it? A:-We did in our public record.
995 Q:-Point to the record and show it? A:-We decided it on the grounds that they had imbibed or practiced doctrines that were foreign to the doctrines of the church.
996 Q:-Have you a record of the re-organized church showing a formal decision of that church that this quorum of twelve had departed from its doctrines of the original church,and had thus forfeited their offices? A:-Only in this sense that we affirmed and re-affirmed from 1852 clear down to the present time that the doctrines of the re-organized church are th the doctrines taught in the bible,the book of Mormon and the book of doctrine and covenants.
997 Q::-What edition of the book of doctrine and covenants? A:-The edition that was published in Nauvoo.
998 Q:-Then is it not a fact Mr.Blair,that the members of the twelve,-I should say that while the members of the twelve in the original church were alive,the re-organized church appointed another and a new quorum of twelve? A:-Is that a fact?
999 Q:-Yes sir,or any part thereof? A:-There was some of them alive without doubt at that time.
1000 Q:-That is a fact that at the time the re-organized church appointed the quorum of twelve there-were still some of the members of the quorum of twelve ~~th~~ that existed in the old church at the time of the death of Joseph Smith,-and they were alive? A:-That is a fact beyond a doubt or question.
1001 Q:-Now is ti a fact that the re-organized church - while these members of the quorum of twelve in the original church were alive,appointed another quorum of twelve? A:-Yes sir.
1002 Q:-That is a fact also? A:-Unquestionably.
1003 Q:-Then is the re-organized church the same as the old church in that respect? A:-Yes sir.
1004 Q:-How,in what respect? A:-In regard to its adherence to the authority of the books that were the standards of doctrine in the old church in the days of Joseph.
1005 Q:-There was an old quorum appointed by the old church,and a xnew quorum appointed by the re-organized church at that time? A:-Yes sir.
1006 Q:-There was two quorums of twelve? A:-Yes sir.
1007 Q:-Which belonged to the old church and which to the new? A:-As far as their persons were concerned the ones that were members of the old quorum with the exception of the ones I have mentioned were in Utah or the ones that were alive were there,but they had forfeited their right to act in that quorum or as a quorum by reason of their apostacy in adopting new doctrine and practicing it,that was contrary to the teachings of the church at the time of the death of Joseph Smith and prior thereto.
1008 Q:-You say they had abandoned the church? A:-Yes sir
1009 Q:-How had they abandoned the church? A--They had abandoned it by abandoning its doctrine.
1010 Q:-What about the quorum in the re-organized church? A:-They accepted as their doctrine the doctrine taught and practiced by the re-organized church which was the-doctrine of the old original church. T That is the original faith and doctrine that was formulated and adopted by the original church and which had been re-affirmed and adopted by the re-organized church upon its re-organization.

IOII Q:-Well is it a fact that the re-organized church did appoint a quorum of twelve? A:-Yes sir,and it is a fact that it seems to me ought to be pretty well established by this time if a repetition of testimony on that point tends to establish it.

IOI2 Q:-Well in that respect was it like the old church? A:-Yes sIr,they had a quorum of twelve as the old church had,or a quorum that corresponds to the quorum of twelve in the old church

IOI3 Q:-And the new quorum was the quorum entitled to authority in the church? A:-Yes sir,for the reason as I have already stated that the old quorum had abandoned the fundamental,or I should say some of the vital questions of doctrine in the church,while the new quorum re-affirmed and stood by the doctrine in its purity as taught and practiced in the old church. The old quorum,we hold,forfeited their rights by their action,hence the necessity of organizing a new quorum of members who were steadfast in the faith.

IOI4 Q:-You say the old quorum had abandoned the doctrines of the church? A:-Yes sir.

IOI5 Q:-And therefore were not competent to exercise authority? A:-Yes sir.

IOI6 Q:-What tribunal ever decided that to be the case? A:-The re-organized church,and every individual in it for himself.

IOI7 Q:-Now there is another constituent element of the re-organized church,and that is the quorum of seventy? A:-Yes sir.

IOI8 Q:-IS,-am I right in using the term "constituent element"? A:-Yes sir.

IOI9 Q:-What are the functions of that element?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent,irrelevant and immaterial,not the best evidence and not cross examination.

~~IO20 Q:-~~ A:-It is the traveling ministry sent to the worl the same as in the name of Jesus,for he chose first twelve and then seventy after that,and they constituted the active gospel ministry.

IO20 Q:Did the church before the death of Joseph Smith have such a quorum? A:-Yes sir.

IO2I Q:-Where was it that Joseph Smith the present president of the re-organized church was ordained? A:-At Amboy,Illinois.

IO22 Q:-Were you present at the timeY he was ordained? A:-Yes sir.

IO23 Q:-Was that in I860 or I86I? A:-I86I.

IO24 Q:-What time in I86I? A:-April 6th.

IO25 Q:-Where had been the presidency of the church between I844 and I860 at the time of the ordination of Joseph? A:-It was from I85I up to that time simply representative. It was a de facto presidency,and a representative of the presidency presided in that sense as the representative of the rightful heir,just as is recorded in the record,but the officer holding that position did not exercise the powers and functions and rights of the president excepting in matters that related to the presidency in conferences and assemblies,such as signing licences and the like.

IO26 Q:-So then the church as re-organized from I852 up to I860 was not like the old church with reference to the presidency? A:-It was like it was prior to the first Presidency having been fully organized in I832,for there was no presidency organized prior to I832 in the former church.

IO27Where was the power prior to that time? A:-The power was in the quorum prior to that time.

IO28 Q:-Will you state the circumstances of the ordination of Joseph Smith at Amboy at that time? A:-It was,-do you mean just simply the ceremony of ordination?

I029 Q:-How was it done? A:-That is the ordination setting him apart to that office?

I030 Q:-Yes sir,the ordination to the office of presiding elder or President of the church,-state how that was done? A:-He delivered first an address which was taken down in long-hand be the editor of the Amboy Times,and consequently is imperfect,but at the close of the address he stated to the people that if the same spirit which prompted his coming there,prompted them in receiving him he would become identified with them,and take his father's place,and upon this a motion was made by one of the conference,-I am not prepared to say by whom,but the record I guess will show,-that he be received and ordained to that office and calling. It was then put upon the motion and carried unanimously,and the President of the conference,who was Zenas H.Gurley,senior,selected William Marks,Samuel Powers and myself to act with him in the ordination,and he was therefore ordained according to the formula of the church to the high priest-hood,and to the prophetic office and Presidency of the church and to the powers,authorities and rights that pertain to it.

I031 Q:-Now that is the manner of the ordination? A:-Yes sir,that is substantially the manner in which it was performed,but of course I have not given every little detail of action and what was spoken,but that was the way it was done substantially.

I032 Q:-What was the order of that ordination? A:-That is as to who officiated?

I033 Q:-No sir,I believe you stated that he was ordained to three functions,-now with reference to these functions what was the order of the ordination? A:-He was ordained first to the high priesthood,-he was made an high priest first,and then immediately ordained to the presidency of the priesthood,-that is to the presidency of the high priesthood and the presidency of the church,and invested by virtue of that ordination with all the powers,prerogatives and rights that belong to that position.

I034 Q:-Was that not all done at the same time,and as a part of the same ceremony? A:-Yes sir,it was all embraced within the same motion and was done at the same time.

I035 Q:-When was he chosen to be a hihg priest? A:-Right there.

I036 Q:-At that same time? A:-Yes sir,and on the same occasion. It was all done at once.

I037 When was he chosen a member of the church? A:-There at that time. A member of the church did you say?

I038 Q:-At that time was he chosen a member of the church? A:-Yes sir.

I039 Q:-Was he baptized at that time? A:-He was received upon his original baptism.

I040 Q:-When was he originally baptized? A:-He was received upon his original baptism as baptized by his father in 1843 or 1844,-I am not sure which year it was but it was one or the other of these years,-'43 or '44.

I041 Q:-Do you know that he was baptized at that time? A :-No sir,not of my own knowledge,but it was claimed to have been then.

I042 Q:-And that was the way he was received in the reorganized church? A:-Yes sir.

I043 Q:-He was not baptized? A:-No sir,for it was not necessary. All members in good standing in the original church are received into the re-organized church on their original baptism if they are of good moral character.

I044 Q:-When was that done? A:-It was done upon the same occasion. Now I say it was upon that same occasion but I will not be positive but what it was the night before. I think,however,that it was upon that same occasion.

I045 Q:-After he was ordained an high priest,was he then chosen by a vote to preside over the high priests? A:-No sir for the reason that all the proceedings were embodied in the one motion which as I said was put and carried unanimously.

I046 Q:-Well is it not a fact that there was no motion that he be chosen to preside over the high priests after he was elected and ordained a high priest? Is it not a fact that there was no vote then taken choosing him for the Presidency,as the presiding high priest? A:-The motion as I now remember it was to the effect that he be received,that his claims b be received,and that he be ordained to the high priesthood,and to signify that he be ordained an high priest and to the presidency thereof and to the Presidency of the church.

I047 Q:-Can any one be ordained to the Presidency of the high priesthood,unless he is first ordained an high priest? A:-The usage and law of the church as we interpret and apply it,is that a person may be called and ordained to an office,and then be immediately ordained to another office,and all be embodied in the same motion.

I048 Q:-Now that is the way that is done? A:-Yes sir.

I049 Q:-Well I would like you to instance a case where it might be done that way? A:-Well for example take the case of a person called to the yuorum of twelve,he may be ordained first to the office of an high priest and then following that at the same time he may be ordained to the office of apostleship.

I050 Q:-Can you legally take a vote to make a man president or presiding officer of the hihg priesthood unless he is an high priest himself?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is incompetent,irrelevant and immaterial, not cross examination and calling for the legal opinion of the witness,which opinion the witness is not competent to give.

I05I Q:-Answer the question? A:-What is the question?

I052 Q:-Can you legally take a vote to make a mah president,or presiding officer of the high priesthood, unless he is an high priest himself? We understand that a motion covering those points and endorsed by the Conference gives the authority to so act.

I053 Q:-Does it give the authority to elect as president of the high priesthoon any member of the church in that manner? A:-Yes sir.

I054 Q:-It does? A:-Yes sir.

I055 Q:-Even though the person so proposed to be elected has not heretofore been elected an high priest? A:-Yes sir.

I056 Q:-It does? A:-Yes sir.

I057 Q:-And that you swear to? A:-I so understand it.

I058 Q:-Will you please read out of Exhidit J. what I now point out to you at page 294 in paragraph 3I, towards the bottom of the page commencing at the words,-"then comes the high priesthood,which is the greatest of all," down to the words__well to the end of the paragraph? A:-Then comes the high priesthood which is the greatest of all;wherefore it must needs be that one be appointed of the high priesthood,to preside over the high priesthood;and he shall be called President of the hihg priesthood of the church,or,in other words,the presiding high priest, over the high priesthood of the church. From the

same comes the administering of ordinances and blessings upon the church,by the laying on of hands."
I059 Q:-Do you recognize that as the law governing in such matters? A:-Yes sir.
I060 Q:-You say you recognize that as the law governing such matters in the church? A:-Yes sir.
I061 Q:-Well now under that law can a man be elected to be presiding officer of the high priesthood who is not an high priest? A:-He would be if he was elected
I062 Q:-How is that,-I would like you to explain how you get around that? A:-We claim that the whole thing can be done by a vote or a motion. If he be a member and a motion is offerred that covers the ground,to the effect that he be ordained to the hihg priesthood,and at the same time cover the ground that he is to be ordained to the Presidency of the high priesthood,-we claim that it can be done in that manner,for in the motion he would first be elected to be an high priest,and the election of the party to the Presidency would be electing one from the high priesthood,for the first step taken would be his election to that position,which would place him in a position to elevation to the Presidency of the high priesthood.
I063 Q:-Do you not make that claim simply because that was the course pursued with Joseph Smith the President of the church? A:-We claim it to be legitimate and such is the usage of the church.
I064 Q:-That was the method of procedure followed in the case of Joseph Smith? A:-Yes sir,and that is the legitimate course too.
I065 Q:-Well has there ever been another occasion in the history of the church in which that course was pursued? A:-Well sir,I cannot say.
I066 Q:-You do not know of another single instance in which such a course was pursued? A:-Well sir,I cannot say what was done in the case of the primitive church because I was not with it.
I067 Q:-Has there ever been an occasion like that in the re-organized church in which that course was pursued A:-I could not say.
I068 Q:-How is it since you cannot instance another occasion of that kind that you say that has been the custom and usage of the church in matters of that kind? How can you say that the custom or law in that respect in the re-organized church is not different ~~fr~~ from the custom,usage or law in the primitive church A:-Now there is no instance that occurs to my mind now in that connection,-yes there is too,-In the case of David H. Smith,I think,if my memory serves me right that he was not an high priest until he was chosen to be one by Mr.Smith's counselors,-second counselor I think it was,and I think that the usage in his case,-although I will not be positive of it, was that he was on motion of Joseph chosen to be his counselor and that he was so ordained. That is my recollection that he was on motion of Joseph chosen to be the counselor of the President Joseph Smith,~~an~~ and to the hihg priesthood,and to be his counselor, and that the motion was carried,and he was so ordained
I069 Q:-Was that before he became an high priest? A:-Yes sir,I think so. I would not be positive about it,but I think so. The same usage has been followed in respect to the calling and ordaining of bishops who are required to be hihg priests. There has been some instances of that kind I think.
I070 Q:-Now then Mr.Blair,is it a practice in your church to defer or prefer usage in these matters in preference to the law? A:-In this instance We claim that it is in harmony with the spirit and genius of the law.

I071 Q:-Does that make it according to the law? You say your action was in accordance with the spirit and genius of the law? Now does that make it in harmony with the law,-does that make it according to the law.
A:-Well according to our judgment it is.
I072 Q:-Upon what do you base that claim? A:-Well sir we claim that the body of the church has the right to ~~i~~ interpret the law. That is what we claim on that matter,-we claim that the church is the highest interpreter of the law,and has the right to interpret it in applying it to these matters.
I073 Q:-You say "we claim",-whom do you mean when you say "we claim" the church is the highest interpreter? A: A:-That is in respect to the administration of the law.
I074 Q:-Whom do you mean when you say "we do"? A:-The church.
I075 Q:-The whole church? A:-Yes sir,the organized body of the church in conference assembled,is the highest authority and has the only right to interpret the law.
I076 Q:-You mean the re-organized church? A:-Yes sir.
I077 Q:-In what respect? A:-In respect or regard to our own affairs we claim that the church is the highest authority,-that the body of the church is the highest tribunal that can possibly be.
I078 Q:-Is that the law of the original church? A:-Yes sir,it was the law and the usage too.
I079 Q:-Is that higher than revelation,-is the church higher than revelation? A:-Revelation to be binding has to be accepted byYthe church.
I080 Q:-Well now do I understand you correctly to say that the church now claims the power to receive or reject revelations? A:-Yes sir.
I081 Q:-Let me understand you,-do I understand you correctly when I say I understand you to say that the church now claims the power to reject revelations?
A:-Yes sir you understand me correctly.
I082 Q:-The church now claims that power and authority?
A:-Yes sir,and always did. It has the power now just as it did in the days of Moses when the law was given at Sinai on the tables,and he had to present the statutes in the hearing of all the people,and when it was done the people said "we accept that for us and for our children",and when that was done he dipped the hyssop in the blood and sprinkled the people,and it became a binding ordinance between God and the people of Israel. That was the law in the days of Moses,and we hold that is has held good ever since and is a very wholesome thing,-at least we think so or we would not practice it.
I083 Q:-Can the people set aside the law of God? A:-It is not a law of God until it is accepted by the people. They have to accept it before it can become a law of God,-that was the principle that was laid down in the very foundation of ~~this~~ the church.
I084 Q:-Where is the principle laid down in the foundation of the church? A:-Joseph Smith and Oliver Cowdery claimed to be teachers and ministers in the church,but the same commandment said to them that they had to wait till they got the consent of the people before they could lawfully fulfill the functions of these offices. That was at the very foundation of the church that we find that law laid down in the commandment,-they were not to do these things unless they had the consent of the people.
I085 Q:-That was the law you say at that time? A:-Yes sir that is what the law itself says and they had to wait until the 6th day of April before they could take unto themselves these functions. That was a

principle that was established at the very foundation of the church, and it has been carried out ever since. Now that is where the common consent of the body comes in,-in other words where the voice of the people comes in.

I086 Q:-Are revelations ever accepted as a law of the church without the church having adopted them? A:-Are they what?

I087 Q:-Are there any cases of revelations ever having been accepted by the church, or rather I should say of their ever having become a law to the church without the church having adopted them? A:-I cannot say as to the primitive or original church as I did not belong to it, but from what I can gather or ascertain I am pretty positive there was not.

I088 Q:-Are there any instances of the,-of a revelation becoming a law of the re-organized church, and becoming binding upon the church without the same having been first submitted to the body of the church for its acceptance? A:-For its adoption?

I089 Q:-Yes sir? A:-I do not know that there is.

I090 Q:-Do you know of any instance of that kind? A:-No sir.

I09I Q:-Do you know of any instance on record in the books in which such was done in the church prior to I844? A:-Prior to I844?

I092 Q:-Yes sir? A:-The book of doctrine and covenants was accepted after that manner, and it went away back to the very foundation of the church, for it was a foundation principle. We find that in February I83I the ministry were called together on what they would accept as the word of God, and in I835 there were selections from the revelations compiled into the book of doctrine and covenants, and they passed from quorum to quorum, and after having gone through the quorums and received their unanimous endorsement, it went before the entire body assembled, both ministry and membership for their final acceptance.

I093 Q:-As a matter of fact are there any revelations that were or are regarded as authentic, and which are or were rules of action, that were never submitted to these tests? A:-Well I don't know of any.

I094 Q:-You say you do not know of any? A:-No sir.

I095 Q:-Look at sections I00 and I02 in Exhibit J. on page two hundred and seventy five? A:-Yes sir.

I096 Q:-What revelation is that? A:-The revelation of February 24th I834.

I097 Q:-Did that revelation ever pass through the quorums? A:-I do not know sir.

I098 Q:-Or through the whole body? A:-I do not know sir.

I099 Q:-You do not know about that? A:-No sir, the date of it is I834, and whether that was received in the book of doctrine and covenants I am not positive, for I never examined it to see.

II00 Q:-You can not say as to whether or not it is in the I835 edition of the book of Doctrine and Covenants? A:-No sir,-it was given in I834 and whether it is in the book of covenants received by the church in I835 I cannot say.

II0I Q:-Look at section one hundred and two also? A:-That is the Fishing River revelation.

II02 Q:-Was that ever received by the quorums? A:-I don't know that it was until it was received by the re-organized church. It was endorsed manifestly by the original church fot it was published in the I845 edition of the book of doctrine and covenants. It was published in I845 and I846, and the rule of the church in the very beginning was that all such documents should be received in the manner already indicated.

II03 Q:-Was it in the book of doctrine and covenants up to that time you mention? A:-I believe I said the '45 edition,-I mean to say the '35 edition,-is that the time you refer to?

II04 Q:-Yes sir? A:-I haven't examined it to see. I think the Fishing River revelation is in it,but the other one I will not be certain about. I think the first one is,but the other one I would not be positive about.

II05 Q:-You think the Fishing River revelation is in it but the other one you cannot be positive about? A:-No sir.

II06 Q:-Now is it not a sample of an authentic revelation that was not submitted to the quorums? A:-Whether it was submitted to the quorums or not I could not now say,for I do not remember of any historical account touching that question.I cannot say whether that was submitted to the quorums or not for that reason.

II07 Q:-Yet you make that the law of the re-organized ch church? A:-It is in the book of covenants,and therefore it is a law and rule of action in the re-organized church.

II08 Q:-Was that ever endorsed by the re-organized church? A:-It was endorsed by the re-organized church in 185[illegible] in conference assembled,and it has been re-affirmed time and again since.

II09 Q:-Well was it in fact endorsed by the general assembly and all the quorums in 1852 in the re-organized church? A:-Yes sir.

II10 Q:-In what manner? A:-It was endorsed by the entire body-that were present. It was a small body of the people it is true,but they were re presentative of the church,and they endorsed it,and accepted it by their officialYaction.

III1 Q:-But it was not accepted by the quorums formally? A-I do not know whether the quorums were organized at that time as quorums,but the ministry were present with the people,and the whole body accepted it.

III2 Q:-Not turn to page two nundred and ninety seven of exhibit J? A:-Thomas B. Marsh,-section one hundred and five,-is that the one you refer to?

III3 Q:-Yes sir? A:-Well what about it?

III4 Q:-Do you notice the revelation there? A:-Yes sir,-the revelation of July 3rd 1827.

III5 Q:-Was that revelation ever accepted by the re-organized church? A:-Yes sir.

III6 Q:-How was it accepted? A:-It was accepted in the acceptance of the book of doctrine and covenants. It was accepted in the book of doctrine and covenants in which we find it published.

III7 Q:-Was it ever accepted in the ofiginal church by the quorums? A:-Yes sir.

III8 Q:-How do you know it was? A:-For the reason that the rule is laid down,and we find it in their publications,and it would not be there if ~~tiit~~ it had not been accepted.

III9 Q:-Can you state when it was accepted? A:-I cannot state any time when it was formally accepted.

II20 Q:-Well turn to page three hundred and see what you get there in section one hundred and six,and also section one hundred and seven? A:-The history that we have of that,-the history we have of section one hundred and six is that it was presented to a conference at Far West and endorsed by that conference.

II21 Q:-What conference was that? A:-The General Conference of the body.

II22 Q:-That action was substituted in the place of its endorsment by the quorum was it not? A:-It does not state how it was endorsed.-that is what order it was endorsed in.

II23 Q:-You cannot say the manner of procedure in the endorsation of that revelation? A:-No sir,not farther than that it was accepted by the body at that conference.

II24 Q:-Was there one done in the same way,-another one? A:-In I84I we find it published in the church organ and I am not prepared to say how it was received,nor when it was received,but we find it in the church organ published in I84I,and we find it afterwards in the book of covenants that was published in Nauvoo in,-well after that anyway at some time.

II25 Q:-What book is that in which it was published after that time? A:-I am not prepared to say what book of covenants it was,but it was one published after that time. I know we find it in the church organ,the Times and Seasons,but as to the formalities that ~~we~~ were had in connection with its reception by the ~~chu~~ church I am not prepared tosay. I do not know anything about that and I do not think it is recorded.

II26 Q:-That is all you know about that? A:-It is.

II27 Q:-Well now I will ask you this question,-does the re-organized church accept doctrines and revelations as laws and rules of action for itself without knowing when-those doctrines and rules of action were accepted,or without knowing whether they were ever accepted by the original church according to the law which you say is and always has been the law ~~for~~ of the church in regard to the acceptance of revelation? A:-The re-organized church accepted the book of doctrine and covenants as it was universally published,on the theory that it had passed the examination that was provided and required for the acceptance of revelations and every thing of that nature before it could become the law of the church and binding on the church. That is the theory that the re-organized church proceeded on,-that it had been accepted in accordance with the law and usage of the church,and the re-organized church re-affirmed for themselves that they accepted it as the law that was binding upon the original church,and therefore binding upon the re-organized church. Now that was first done in I852 by the re-organized church,and has been done time and again thereafter in their general conferences.

II28 Q:-Will you refer now to page one hundred and two in Exhibit J.Section nineteen,entitled"Revelation to Joseph Smith,Jr,given April 6th I830",and read from paragraph two? A:-"Wherefore,meaning the church, thou shalt give heed unto all his words and commandments which he shall give unto you,as he receiveth them,walking in all holiness before me;for his word ye shall receive as if from mine own mouth in all patience and faith,for by doing these things the gates of hell shall not prevail against you;yea,and the Lord God will disperse the powers of darkness from before you and cause the heavens to shake for your good and his names glory. For thus saith the Lord God,him have I inspired to move the cause of zion in mighty power

for good: and his diligence I know and his prayers I have heard; yea his weeping for zion I have seen,and I will cause that he shall mourn for her no longer,for his days of rejoicing are come unto the remission of his sins,and the manifestations of my blessings upon his works."

II29 Q:-Now what is that? A:-I unberstand it is a commandment.

II30 Q:-Is it a law of the re-organized church? A:-When it was endorsed it became a law.

II3I Q:-Has it been endorsed? A:-Yes sir. There is a ~~qu~~ qualifying clause in there,-"his words and commandments as he shall receive them from the mouth of God."

That is in effect what the revelation says,-that he is to receive them from the mouth of God,and we must be satisfied that he does receive them in that manner and until we do become satisfied that he ~~XXXX

II48 Q:-You say the re-organized church has not accepted that? A:-No sir. If that history of it we have be taken as true then we might accept it, but as it is we have not.
II49 Q:-Then you are not like the old church in that respect? A:-Yes sir, we are.
II50 Q:-No, excuse me but you are not. A:-Why so?
II51 Q:-Because they accept it and you do not.. A:-We don't know that they did or did not. There is no evidence showing that the old church accepted it. We would feel very grateful to you if you could show us that the old church had accepted it.
II58 Q:-Well why don't you accept it? A:-We do not accept it for the reason that we believe and can prove that more or less that is published in the Millenial Star is not correct.

We prove it by comparing what was published in the Millenial Star with what was published in the church organ before that.
II53 Q:-Is there not a law or commandment in the church, commanding the church to receive all of Joseph Smith revelations? A:-No sir.
II54 Q:-There is not-you say, such a law? A:-No sir, the church was to receive only those that the church was
II55 Q:-Carried out from the only direction was applied uniformly? A:-Manifestly it was, otherwise they would not have placed the revelations before the quorups and the church for the quorums and church to say whether they would accept them or not. That is manifestly so.
II56 Q:-Wouldn't the church be under condemnation did it refuse to accept the revelations of Joseph Smith? A:-No sir, not if they would reject them acting on their best light they had on the subject.
II57 Q:-Will you turn to Exhibit J, page two hundred and twenty six and read paragraph eight? A:-"And your minds in times past have been darkened because of unbeleef, and because you have treated lightly the things you have received, which vanity and unbelief hath brought the whole church under condemnation. And thus condemnation resteth upon all the children of zion, even all and they shall remain under this condemnation until they repent and remember the new covenant, even the book of Mormon and the former commandments which I have given unto you, not only to say but to do, according to that which I have written that they may bring forth fruit meet for their father's kingdom, otherwise there-remaineth a scourge and a judgment to be poured out upon the children of zion; for, shall the children of the kingdom pollute my holy land? Verily I say unto you, nay."
II58 Q:-You might as well also read the next paragraph? A:-"Verily, verily I say unto you, who now have my words, which is my voice, blessed are ye, inasmuch as you receive these things; for I will forgive you of your sins with this commandment, that you remain steadfast in your minds in solemnity and the spirit of prayer, in bearing testimony to all the world of those things which are communicated unto you."
II59 Q:-Do you recognize that? A:-Yes sir.
160 Q:-As a law of the church? A:-Yes sir. We receive it for the reason that they received it as such,-they had accepted it as such just as it is mentioned there in the paragraph.

Re-direct examination by Mr. Kelley.-
61 Q:-In your cross examination Mr. Blair you were asked about the presentation and adoption of revelations by the church? A:-Yes sir.
Q:-Well now I will ask you if it is not a fact that

revelations that may be presented to the proper quo-
and by them to the church,and still may not appear
on the printed book? A:-How is that?

II63 Q:-I asked you if it was not possible that revela-
tions may be presented to the proper quorums and
then be presented to the body of the church,and be
accepted,and still not appear in the printed book?
A:-I do not understand,-oh,yes,I see what you mean.
It is in some cases a question of propriety. Unless
the conference should take some action upon it and
demand that they be published,that is a question
that would depend upon those who had charge of the
literary concerns as to whether they would be pub-
lished or not unless the conference had specially
directed their publication.

II64 Q :-Is it not true that before any of them are pub-
lished it requires an order from the conference?
A:-It does in the re-organized church. What the
practice in the former church was I cannot say.

II65 Q:-Now on yesterday you were asked on cross-examina-
tion about the authority or the organization of the
different quorums in the church,the quorum of twelve
and certain other quorums. You may now point out
from the book of doctrine and covenants,the one mark-
ed Exhibit E.the authority for the organization of
the quorum of twelve,and designate the paragraphs to
the reporter so that he may incorporate them in the
record? A:-It is found in section forty three.

II66 Q:-Read the third,fifth and sisth paragraphs of sec-
tion forty three? A:-Shall I also read the caption?

II67 Q:-Yes sir? A:-"Revelation to Joseph Smith,Jr,Oliver
Cowdery and David Whitmer,making known the calling
of twelve apostles in these last days,and also in-
strncting relative to building up the church of
Christ according to the fullness of the gospel.
Given in Fayette,New York,June 1829."Now you say for
me to read paragraph three?

II68 Q:-Paragraghs three,five and six? A:-paragraph three
is as follows,-"And now Oliver Cowdery I speak unto
you,and also unto David Whitmer by way of commandment
for behold I command all men everywhere to repent,
and I speak unto you even as unto Paul mine apostle,
for you are called even with that same calling with
which he was called. Remember the worth of souls is
great in the sight of God,for behold the Lord your
Redeemer suffereth death in the flesh,wherefore he
suffered the pain of all men,that all men might re-
pent and come unto him. And he hath risen again from
the dead that he might bring all men unto him on con-
ditions of repentance. And how great is his joy in
the soul that repenteth,-wherefore you are called to
cry repentance unto this people,and if it so be that
you should labor all your days in crying repentance
unto the people,and bring,save it be one soul unto
me,how great shall be your joy with him in the king-
dom of my father.
That is section three and now I will read section
five,-or rather paragraph five in section forty-
three,-It is as follows,-"And now behold there are
others who are called to declare my gospel,both unto
Gentile and unto Jew,yea even twelve,and the twelve
shall be my disciples,and they shall take upon them
my name,and the twelve are they who shall desire to
take upon them my name,with full purpose of heart;
and if they desire to take upon them my name with
full purpode of heart,they are called to go into all
the world to preach my gospel unto every creature;
and they are they who are ordained of me to baptize
in my name,according to that which is written;and
you have that which is written before you,wherefore
you must perform it according to the words which are
written. And now I speak unto the twelve. Behold my
grace is sufficient for you;you must walk uprightly

before me and sin not. And behold you are they who are ordained of me to ordain priests and teachers to declare my gospel,according to the power of the Holy Ghost which is in you,according to the calling abd gifts of God unto men;and I Jesus Christ,your Lord and your God have spoken it. These words are not of men nor of man but of me;wherefore you shall testify they are of me and not of man;for it is my voice which speaketh them unto you;for they are given by my spirit unto you,and by my power you can read them one to another;and save it were by my power you could not have them;wherefore you can testify that you have heard my voice and know my words.
Paragraph six is as follows,-"And now behold,I give unto you Oliver Cowdery,and also unto David Whitmer, that you shall search out the twelve who shall have the desirea of which I have spoken;and by their desires and their works ye shall know them;and when you have found them you shall show these things unto them. And you shall fall down and worship the Father in my name;and you must preach unto the world,saying you must repent and be baptized in the name of Jesus Christ:for all men must repent and be baptized;and not only men,but women,and children who have arrived to the years of accountability." That is all.

II67 Q:-Now yesterday you were inquired of as to the law relating to high priests and the seventies,-the high priests and high counsel. You may now read from Exhibit E.section thirteen,paragraphs eight and ten A:-Paragraph eight is as follows,-"If thou lovest me thou shalt serve me and keep my commandments. And behold thou wilt remember the poor,and consecrate of thy properties for their support,that which thou has to impart unto them,with a covenant and a deed which cannot be broken,-and inasmuch as ye impart of your substance to the poor ye will do it unto me,-and they shall be laid before the bishop of my church abd his counselors,two of the elders or high priests such as he shall or has appointed and set apart for that purpose.
Paragraph ten is as follows,-"And if there shall be properties in the hands of the church,or any individual of it,more than is necessary for their support after this first consecration,which is a residue,to be consecrated unto the bishop,it shall be kept to administer to those who have not,from time to time, that every man who has need may be amply supplied, and receive according to his wants. Therefore the residue shall be kept in my storehouse,to administer to the poor and the needy,as shall be appointed by the high counsel of the church,and the bishop and his counsel,and for the purpose of purchasing lands for the public benefit of the church,and buildind houses of worship,and building up the New Jerusalem which is hereafter to be revealed,that my covenant people may be gathered in that day when I shall come to my temple. And this I do for the salvation of my people." This purports to be a revelation given by Christ.

II68 Q:-What is the date of that revelation? A:-February 6th. I83I. February is the real date,-the 9th day according to the history of the church.

II69 Q:-You may now turn to Exhibit J.and read that part of section 99 with reference to the organization of the high counsel,and designate to the reporter what particular part of the section you refer to? A:-I will read the caption,-"Minutes of the organization of the High Counsel of the church of Christ of Latter Day Saints,Kirtland,FebruaryI7th,I834."

By Mr.Southern,-"All these exhibits and the extracts read from same are objected to because they are not properly identified,and also because,as we claim, they are not pertinent to the issues in this case,~~ad~~

and they are objected to for that reason."
A:-It is section 99 in book marked J and section five in ExhibitE. I will read the first and the third paragraphs from Exhibit E.as follows,-The first paragraph reads thus,-"Thia dav a general council of twenty-four high priests assembled at the house of Joseph Smith,Jr,by revelation,and proceeded to organe the high council of the church of Christ,which was to consist of twelve high priests,and one or three presidents,as the case might require. This high council was appointed by revelation for the purpose of settling important difficulties which might arise in the church,which could not be settled by the church or the bishop's council to the satisfaction of the parties.
Paragraph three is as follows,-"The number composing the council who voted in the name and for the church in appointing the above named counselors,were forty three,as follows;-nine high priests,seventeen elders four priests and thirteen members.
The caption in ExhibitE.is the same as the caption to the corresponding section in ExhibitJ. which I have heretofore read.

II70 Q:-You may now turn to section forty nine,in Exhibit E.on page one hundred and seventy nine,and read the first paragraph? A:-I will read the caption first, which is as follows,-Revelation to Joseph Smith,Jr. Oliver Cowdery and John Whitmer,given July I830."
The first paragraph reads as follows,-"Behold I say unto you that you shall let your time be devoted to the studying of the scriptures,and to preaching and to confirming the church at Colesville;and to perform your labors on the land,such as is required,until after you shall go to the west to hold the next conference,and then it shall be made known what ye shall do. And all things shall be done by common consent in the church,by much prayer and faith;for all things you shall receive by faith. Amen."

II7I Q:-Now read from the same Exhibit E.,section fifty-one,paragraph four? A:-Revelation given to Oliver Cowdery,September I830." That is the caption,and the first paragraph reads thus,-"Behold I say unto thee Oliver,that it shall be given unto thee that thou shalt be heard by the church in all things,whatsoever thou wilt teach them by the Comforter,concerning the revelations and commandments which I have given."

II72 Q:-You were inquired of yesterday on the cross examination regarding the name of the church. I will ask you now to give to the reporter any paragraph of the new testament,or verse showing what the name of the church was,-the specific name of the church was to be,if you can recollect it without the book? A:-well the church in the days of Jesus and the apostles as recorded in the new testament was called interchangably,"the church of God","the church of Christ","the church of the First Born","The churches of the saints" That is what I recollect about it. Now do you want the text?

II73 Q:-Do you refer to the passage in the sixteenth chapter of Romans? A:-I do,-that is one of the passages in the text that I refer to. These names are used throughout the new testament in various connections and in various places. Do you wish the texts?

II74 Q:-The one in the sixteenth chapter of Romans is the only one that refers to that. You can give to the reporter the verse of any others? A:-Hebrews I2-23 "church of the First Born", Acts 20-28,"church of God",-Ist Corinthians I-2,"church of God",-Ist Cor. 28,"church of God",-Ist Cor. II-22,"church of God",-Ist Cor. I5-9,"church of God",-GalatiansI-I8,"church of God",-Ist Timothy3-5,"church of God",-Ist Thess.

2-I4,"church of God",-Romans I6-I6,"churches of Christ",-Ist Cor.II-I6,"churches of God",-Ist Cor. I4-33,"the churches of the saints"it is the 33rd and 34th verses,-no the 33rd verse,-that is right,-it reads "for God is not the author of confusion but of peace as in all the churches of the saints."

II74 Q:-I will get you to read Mr.Blair,the fourteenth and the fifteenth verses of the third chapter of Ephesians? A:-For this cause I bow my knees unto the father of our Lord Jesus Christ,of whom the whole family in heaven and earth ~~are blessed~~ is named."

II76 Q:-Now read the ninth verse of the first chapter of Revelations? A:-I,John,who also am your brother and companion in tribulation and in the kingdom and patience of Jesus Christ,was in the isle that is called Patmos,for the word of God,and for the testimony of Jesus Christ."

II77 Q:-I will ask you now Mr.Blair,whether or not the words "church" and "kingdom" were used synonomously in the bible? A:-We so understand it.

II78 Q:-You may read now from the I6th chapter of Matthew showing the use of the two terms in that way? A:-Any special verses?

II79 Q:-Well yes,the nineteenth and the twentieth verses? A:-And I say also unto thee that thou art Peter,and upon this rock I will build my church,and the gates of hell shall not prevail against it,and I will give unto thee the keys of the kingdom of heaven,and what-soever thou shalt bind on earth shall be bound in heaven,and what-so-ever thou shalt loose upon earth shall be loosed in heaven."

II80 Q:-Mr.Blair,I will get you to read from Exhibit E. paragraphs one and two of section fourteen. It is on pages I25 and I26,and is dated February I89I? A:-Oh hearken,ye elders of my church,and give ear to the words which I shall speak unto you;for behold verily,v verily I say unto you that you have received a commandment for a law unto my church,through him whom I have appointed unto you to receive commandments and revelations from my hand. And this ye shall know assuredly,that there is none other appointed unto you to receive commandments and revelations until he be taken,if he abide in me.
But verily,verily I say unto you,that none else shall be appointed unto this gift,except it be through him, for if it be taken from him he shall not have power, except to appoint another in his stead; and this shall be a law unto you,that you receive not the teachings of any that shall come before you as revelations or commandments;and this I give unto you that you may not be deceived,that you may know they are not of me. For verily I say unto you that he that is ordained of me shall come in at the gate and be ordained as I have told you before,to teach those revelations which you have received,and shall receive through him whom I have appointed."

II8I Q:-Now you were asked in your cross examination about the method of representation of the church in conferences? A:-Yes sir,I was asked that question.

II82 Q:-I will ask you to look at this book marked Exhibit four,and state what it is? A:-It is a book entitled the "manuel of practice and rules of order and debate for deliberative assemblies in the church of Christ of,-the church of Jesus Christ of Latter Day Saints,compiled by Joseph Smith and Thomas W. Smith, revised by order of conference by M.H.Forscutt.E.L. Kelley and Joseph Luff,Lamoni,Iowa,printed and published by the board of publication of the Church of Christ. I89I." IT was printed and published by the board of publication at Lamoni,Iowa,in I89I.

II83 Q:-Is that the rules of practice by and under which the re-organized church of Latter Day Saints is governed? A:-It is. That is the rule that prevails in all deliberative assemblies of the re-organized church,and under whose provisions it conducts its business.

II84 Q:-Does that contain the rules of representation? A:-Yes sir.

II85 Q:-Commencing on what page? A:-The rules of representation,you mean,by delegates?

II86 Q:-Yes sir? A:-It is chapter sixteen on page one hundred and fifty eight.

II87 Q:-Please read them to the reporter? A:-"Chapter sixteen. Rules of representation. Section I75. Ex-officio members of General Conference. The General officers of the church known as the Presidency,the Twelve,the High Council,the Seventy,and the Bishopric (proper),are ex-officio members of General Conference,and entitled to a voice and vote as representatives of the spiritual authorities of the church at large. All High priests and elders are ex-officio members,entitled to voice and vote in General Conference,when present.
Section I76,-District Conference Delegates to General Conference. Organized Districts are authorized to appoint at their last quarterly session of District Conference,next preceding the session of General Conference,delegates to said session of General Conference, who shall be entitled tor epresent said districts; which delegates so appointed shall be declared members of said General Conference,entitled to voice and vote. Then follows how they are chosen,-"The choice and appointment by said districts shall be made by a majority of those present,and voting in regular or called session of district conference,of the holding of which due notice shall have been given as to time and place within the district,together with a statement of any important business or action that is to be presented to,or likely to be had by said General session affecting said district,and to which their approval or disapproval is desired; that instructions to said delegates may be given as to their actions."
I do not know that it is necessary to read all this, for the book is in evidence.

II87 Q:-No,it is not necessary unless the gentlemen insist upon it. I will ask you if these are the rules that thave been adopted for or by the re-organized church,for the purpose of obtaining the common consent of the people? That is,the common consent of the church? A:-Yes sir,through its delegates.

II80 Q:-I will ask you if these rules are the outgrowth of the development of the church? A:-Yes sir.

II89 Q:-They are? A:-We esteem them as such.

By Mr.Southern,-"We object to that for the reason that it is leading. This witness is intelligent,and there is no occasion for leading him."

By Mr.Kelley,-

II90 Q:-Well what is the fact about that Mr.Blair? A:-Well,we think,and so we teach,and so we practice, that the church is compared to a house,-there is the foundation,and then there is the first parts of the super-structure,and so it rises until the whole edifice is finally finished and completed. That is the way we look at it,-just as we look at the erection of a house,and we know that the foundation contemplates the erection of the super-structure. Of course I do not mean to be taken literally,but simply as using the illustration in a figurative sense.

II9I Q:-Well,we understand that? A:-Thus it is with the church,-one part of the super-structure contemplates other parts and so the work of construction goes on

apace until finally the completed structure appears in all its perfection,and so it was with the church, the work of organization and adjusting the various parts of the working machinary one to another was the work of time. This is the way we regard the church,and we think the illustration is an apt one, for we find it recorded in holy writ,-the bible, "the house of God." Now these rules of representation and the like are but the means to the end of carrying out the work and facilitating the up-building of the church in harmony with the foundation principles

II92 Q:-Look at section two of Exhibit E. paragraphs twenty-five and twenty-six,on page eighty two? A:-Here it is.

II93 Q:-What is the date of it? A:-Well it was,-history records the fact that it was a few days before the organization of the church,and the church was organized April 6th 1830,and the history of the giving of this revelation,-it is without date here,-but the history of it is contained in the Times and Seasons, is that it was given just prior to the organization of the church

II94 Q:-Well read paragraphs twenty-five and twenty-six to the reporter?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons t that it is incompetent,irrelevant and immaterial and not re-direct examination.

II95 Q:-Read it as a part of your direct examination Mr, Blair,? A:-,Any member of the Church of Christ transgressing,or being overtaken in a fault,shall be dealt with as the scriptures direct.

It shall be the duty of the several churches composing the church of Christ,to send one or more of their teachers to attend the several conferences,held by the elders of the church,with a list of the names of the several members uniting themselves with the church since the last conference,or send by the hand of some priest so that a regular list of all the names of the whole church may be kept in a book,by one of the elders,whoever the other elders shall appoint from time to time,-and also,if any have been expelled from the church,so that their names may be blotted out from the general church record of names."

II96 Q:-We offer also all of chapter sixteen commencing at the top of page one hundred and fifty eight,and ending at the middle of page on hundred and sixty-two of Exhibit four,which we desire to be copied in the record as a part of the testimony of this witness beginning at the beginning of chapter sixteen?

The following is a copy of chapter sixteen in Exhibit four,omitting number of chapter,-

"Rules of Representation. Sec.175.-Ex-officio members of General Conference. The General officers of the church,known as the Presidency,the Twelve,the High Council,the Seventy,and the Bishopric (proper),are ex-officio members of General Conference,and entitled to a voice and vote as representatives of the spiritual authorities of the church at large. All high priests and elders are ex-officio members,entitled to voice and vote in General Conference,when present.

Sec.176,-District Conference Delegates to General Conference. Organized districts are authorized to appoint at their last quarterly session of district conference, next preceding the session of General Conference,delegates to said session of General Conference,who shall be entitled to respect said districts;which delegates so appointed shall be declared members of said General Conference,entitled to voice and vote.

I. How chosen; Notice of choosing,etc. The choice and

appointment by said districts shall be made by a majority of those present,and voting in regular or called sessions of district conference,of the holding of which due notice shall have been given as to time and place within the district,together with a statement of any important business or action that is to be presented to,or likely to be had by said General Session,affecting said district,and to which their approval or disapproval is desired,that instructions to said delegates may be given as to their actions.
2. Qualifications to Eligibility. The only qualifications to eligibility,to the office of deligate-from district to General Conference shall be membership and good standing in the church.
3rd. Basis of District Representation. Each district shall be entitled to one delegate for every twenty-five members of said district,and one vote in conference for each delegate to which they may be entitled.
4. Rules and Restrictions of Delegate voting. (a) The delegates present at conference from any one district shall be antitled to cast the full vote of the district of which they are delegates,unless otherwise instructed by their district conference.
(b) Provided,that in case of ~~the~~ a disagreement of views among the membership of said delegation,(the full delegation not being present),they shall be entitled to cast only their individual vote as said delegates.
5. Each delegate limited to twenty votes. No one delgate shall be entitled to cast as representative in the same conference,more than twenty votes.
Sec.I77,-Representation of Branches not in Districts.
Each regularly organized branch of the church not included in an organized district,shall be entitled to one delegate,who shall have the same privileges as delegates of districts.
Rule for choosing of Branch Delegates.
Due general notice to the members of the branch of the time and place of meeting for the choosing of said delegate shall be properly given,as in case of districts.
Sec. I78,-Certificates of appointment required.
Delegates shall be entitled to act as such as hereinbefore provided upon presenting certificates of appointment,signed by the presidents or clerks of districts or branches appointing them.

Sec. I79 ~~O:-~~ Instructing Delegates;Number of votes to be cast by; Tie votes,etc.-
I In all cases of grave importance,affecting the polity and faith of the church,districts and branches may instruct delegates to cast a majority and minority vote for and against;-
2 But in no case shall the number of the votes cast by said delegates so instructed,exceed the number to which the district appointing ~~them~~ shall be entitled,as hereinbefore rpovided.
3 And in case of a tie in districts or branches,on questions presented to them,certified to said delegates the votes of said districts or branches,shall be cast in equal numbers by the delegates.
Sec. I80,-Organization and Membership of Delegate District Conferences.
Districts may organize their sessions of conference agreeably to the above rules,by providing for delegate conferences,of which the basis of representation shall be one delegate for each six members in each branch or fraction thereof. Districts may constitute priests,tea-

chers and deacons as members of their conferences, as well as the elders,if they choose."

II97 Q:-I will get you to explain,Mr.Blair,the use of quorums in a church,or in the church? A:-They are organized for the purpose of aelf-instruction,and to facilitate the carrying into effect of the doctrine and laws and usages of the church.

II98 Q:-I will ask you Mr.Blair,what body of the people it was in I830 that were organized by Joseph Smith, Jr.as he was called,which from that time on up to I834 called themselves by the various names of the "church of Christ","the Church of God",and various other titles or names? A:-It was the same body.

II99 Q:-It was the same body? A:-Yes sir,according to history it was the same body of people as we learn from the church organs and from personal contact w with the membership.

I200 Q:-What membership? A:-The membership of the body that composed or constituted the church called the church of Latter Day Saints,and the church of Jesus Christ of Latter Day Saints.

I20I Q:-Was that the same body of people that afterwards in I834 called themselves the church of Latter Day Saints? A:-Yes sir,according to the church organ it was.

I202 Q:-Was that the same body of people that afterwards in I838 and up to I844,maintained an organization, and called themselves the Church of Jesus Christ of Latter Day Saints? Called themselves by that title and maintained an organization and their head-quarters at Nauvoo,Illinois? A:-Such is the history of it as it is contained in the church organs and by common rumor,or the common report of its membership.

I203 Q:-Is that the same church organization,-the same body of people who had maintained an organization ~~he~~ here in Independence Missouri in I83I-2 and 3? A:-Yes sir.

I204 Q:-The same body of people who were,or had an organization at Far West in Caldwell County,in the state of Missouri? A:-Yes sir,the same.

I205 Q:-Thereafter? A:-Yes sir,after they were at Independence here.

I206 Q:-And the same body of people that afterwards went from Far West,Missouri,to Nauvoo,Illinois? A:-Yes sir

I207 Q:-Was it the same body of people of which the re-organized church of Jesus Christ of Latter Day Saints is the successor? A:-So we understand it. It was or is composed of members from that body or was at the re-organization largely composed of members from the church as it existed prior to I844.

By Mr.Southern,-"That is all objected to,,both questions and answers because it is a repetition or asking over again of questions on matters that have already been asked or gone into on the direct examination and concerning which the cross examination of the last two days has been had."

Re-cross examination by Mr.Southern,-

I208 Q:-Now a new exhibit has been placed in testimony here called Exhibit"four"? A:-Yes sir.

I209 Q:-Entitled a Manual of Practice and Rules of Order and Debate for Deliberative Assemblies of the Church of Jesus Christ of Latter Day Saints,compiled by Joseph Smith and Thomas W. Smith,revised by order of Conference by M.H.Forscutt,E.L.Kelley and Joseph Luff," and printed at "Lamoni,Iowa",-"printed and published by the board of publication of the Church of Christ,I89I." Is that correct? A:-Yes sir. I think you have stated the title or caption correctly

I2I0 Q:-Does this represent the re-organized church of Jesus Christ of Latter Day Saints? A:-Yes sir.

I2II Q:-Were you privy to the preparation of this Exhibit "four"? A:-What is that? I do not understand the question.

I2I2 Q:-Were you privy to the preparation of this exhifit marked "four"? That is the question,-were you privy to its preparation? A,-That is,with reference to knowing that such a work was being prepared?

I2I3 Q:-Yes sir? A:-Yes sir.

I2I4 Q:-Did you know anything about as its preparation went on? A:-Well I knew something about it.

I2I5 Q:-Can you state why they styled it the "Church of Jesus Christ of Latter Day Saints",and left off the word "re-organized"? A:-No sir,I cannot say,unless it was that it was done,-I can't say.

I2I6 Q:-Can you tell why they called it the "church of Christ" and say it was published by the board of publication of the "Church of Christ" and leave off the "re-organized" and the words "Latter Day Saints"? A:-Yes sir,I think I can.

I2I7 Q:-Well why was it put that way? A:-Because it is in accordance with the usages of the bible and the book of Mormon and the book of Covenants,for the terms there used are synonomous with the church of God. They are used synonomously,or interchangably with the "Church of God",the "Church of Christ",the "Church of Jesus Christ",and the "Church of Latter Day Saints." All of these names are used in the book of Mormon,and the term is an abbreviated form of the church of Christ.

I2I8 Q:-That is your explanation of the reason why it is styled that way in there? A:-Yes sir,that is the reason,I think.

I2I9 Q:-Can you tell the precise date at which this book was prepared,or anything like the precise date? A:-The documents composing it,-for it is a compilation, well there was a former issue of it,and the former issue was accepted by the church in its conferences. I cannot tell you just when it was prepared,-that is the first issue of the book,but at any rate the board of revision was appointed,and they submitted the matter they had compiled in the revision to the last conference that was held.

I220 Q:-At what conference was that? A:-The General Conference that was helt at Kirtland,Ohio,-at that conference those elements were discussed,and upon motion and vote they were adopted.

I22I Q:-Do you mean to say that the manuscript from which this book was printed was submitted to the last conference at Lamoni,Iowa? A:-No sir,not there,-it was at Kirtland,Ohio.

I222 Q:-Kirtland,Iowa? A:-No sir,Kirtland,Ohio.

I223 Q:-All of it,just as it is published here? A:-Yes sir,we understand that it was presented there.

I224 Q:-Have you the minutes of the conference at Kirtland Ohio,at which that was done? A:-No sir.

I225 Q:-You have not those minutes? A:-I have not,-not here with me.

I226 Q:-Do you recognize the pamphlet which I now hand you as being a pamphlet containing the report of those minutes? A:-Yes sir.

I227 Q:-Will you please turn to the place in that pamphlet at which these proceedings are found detailed as they occurred there? A:-That is,the revision or amendments?

I228 Q:-Yes sir? A:-You will understand that the book was published prior to this time.

I229 Q:-How is that? A:-I say you will understand that the book was published prior to this,and what was done there was simply to consider the amendments.

I220 Q:-Well turn and see what the conference did in reference to that? A:-Is this it"Kirtland,Ohio",-on page sixty three?
I23I Q:-Well,I presume it is,-read it and see if that is it? A,-"The committee on revising the book of rules as appointed by the last Conference,reported as follows;-Kirtland,Ohio,April IIth I89I.

Messers President and Brethren:-We,your committee on revision of the book of rules,submit herewith as our report two books cut and pasted on slips ready for printer's hands,or to be made ready by us if accepted by you. To these,and on the margin of them,we gave entered proposed corrections. These are chiefly changes in tense or case over-looked in first compilation,and a few transpositions. We have made no changes except grammatical ones,not feeling authorized to make others,but we suggest the following changes for your consideration.

Ist,-That so far as may be possible or practicable,the subject matter of each paragraph be published on the top thereof as a sub-heading,so that the especial features of each division of a subject may be more readily apprehended without reading the entire section or chapter. To provide for these we have supplied sub-headings.

(P I7) 2nd,-To section 27,paragraph 4,we suggest the addition of a clause,giving to the secretary the right to an assistant secretary,or to clerks.

(P 29) 3rd,-To section 5I,we suggest the addition of a paragraph,or clause that shall prevent the obstruction of business,which in its present form,it is possible to accomplish by continuous demands for the repeating or reading of a proposition before the assembly.

5th,-We further suggest that as the note,giving the rule in the house of Representatives really gives the rule giving precedence of motions,that the words "to refer" follow "to commit",and that the note become section 54 of the Book of Rules.

6th,-We have also indicated the places where we think an understanding of the several parts of a section or a paragraph would be promoted,and the right use of them facilitated by division and sub-division into parts that shall contain one distinct proposition,or proper division of a proposition only,wherever practicable.

7th,-We also suggest the addition of some statements in connection with privileged and incidental questions and subsidary motions,that shall make the meaning,object,scope and effect of these questions more clear to those unfamiliar with parliamentary law and usages,and more readily apprehensible to all. These additions your committee has supplied.

8th,-We suggest that a list of Privileged Questions,of Incidental Questions,and of Subsidary motions,be inserted and in the order in which they take precedence of each other.

9th,-There being clearly a difference of views held by the ministry respecting the officers of a branch,some conding for one priest,one teacher and one deacon only as constituting the proper aids to a branch President under the law,-if that President be an elder,and others contending for a plurality of these officers,if they are deemed necessary,your committee ask that conference determine this question. Sections 4,8 and I64 are involved in this decidion.

I0th,-Your committee suggest that in connection with this question of the number of branch officers of the Aaronic order,that there be inserted in the Book of Rules a distinct statement that in the absence of the presiding Elder,the priest of the branch shall have the right to preside,whatever other elders are present: so if the b branch elder and priest be absent,the branch Teacher

shall have the right to preside,whatever elders and priests may be present;so likewise if the branch elder, priest and teacher be absent,the branch Deacon shall have the right to preside.
IIth,-We suggest that in the call for the yeas and nays as provided for in section II9,a clause be added that the call shall not be entertained unless,in a General Conference,it be made by five members of the body,nor in a district Conference,unless it be made by three members of that body Conference;nor in either case unless it be made prior to the taking of a negative vote upon a question.
I2th,-A portion of your committee believing that the amendment by a former conference of the rule governing the actions of a branch on receiving the decision of an Elder's Court,whereby the right to reject the findings of the court is conceded to the branch,has wrought injury by causing contentions in branches,suggest that the conference re-consider that resolution.

Respectfully sebmitted by your committee
Mark H. Forscutt.
E.L.Kelley. Committee.
Joseph Luff.

The committee recommend that the rules of Representation be published in the Book of Rules in the amended form in which they are published in the Herald,with such other amendments as conference at this session shall provide. The committee as such has no other suggestions concerning the work assigned them.

M.H.Forscutt. Chairman.

After reading it was decided to take it up section by section. Sections I,2,3,4,6,7,8, and II were adopted without amendment. Section 5 was divided into paragraphs. The first and second one were adopted without discussion the third was opposed by Brn. W.H.Kelley,Salyards,H.C. Smith,J.H.Wells and F.M.Sheehy. IT was supported by Brn. Pitt,Robinson,Forscutt,Hulmes,Hilliard and Crabb. The measure was lost by a vote of 39 against and I7 for. Sections were referred to the First Presidency for report at this Conference. Section I2 was re-committed. Section I3 was referred subject to report.
Brn. J.H.Peters,Joseph Luff and M.H.Forscutt,the committee on auditing Herald accounts,presented their resignation,a and it was accepted. That is all of it.
I232 Q:-Do you find anything there giving this title page which has been read here? A:-The title page was on the former,-I think the title page was with the exception of the words,-well the title page was on the former work before it was amended the same as it is here.
I233 Q:-Where is that old work,-the rules of honor(???)?
A:-We have scores of them at the office.
I234 Q:-Do you say this title page is the same as that?
A:-Essentially the same.
I235 Q:-IT is essentially the same,you say? A:-Yes sir,we think it is essentially the same.
I236 Q:-Is it verbally the same? A:-I would not say for the reason that I never compared it.
I237 Q:-Well the old book of the Rules of Order and Debate,etc,which you had,when did you say it was prepared? A:-Well the preparation of it began I think as early as about '76,and then after that from time to time there was some amendments added as endorsed by the church at its conferences.
I238 Q:-Was that book in existence prior to I876? A:-I would not say just as to what the date of it was. I

cannot say as to the exact date of its first preparation.

I239 Q:-Was it in existence prior to I844? A:-No sir.

I240 Q:-It was not a book of the church prior to I844? That is,a book authorized by the church prior to '44? A:-No sir,I think not.

I24I Q:-Then I believe you say that the book of order,etc and Manual of practice which you present here is a development? I believe you so stated on your re-direct examination,or your direct examination,I forget which? A:-Yes sir,we regard it in that light,and it is the outgrowth of the necessity for something in that nature in the church in the same manner as the rules of Congress or any other parliamentary body are the natural outgtowth ~~of~~ the necessity for having something to regulate the proceedings of such a deliberative body.

I242 Q:-Does not this book here called the Rules of Honor(???)purport to lay down rules of representation of the various branches in the conference? A:-So far as delegate representation is concerned it does.

I243 Q:-It does? A:-Yes sir.

I244 Q:-In what way?A:-It exhibits to us what we deem the best methods by which the voice of the body can be got before the general assemblies or conferences.

I245 Q:-Does not delegate representation owe its existence to the rules that are to be found in this work? A:-No sir,it does not.

I246 Q:-Where does it take its origin,if not there? A:-We find the principle in section seventeen-of the book of Covenants,where it is declared that the -churches shall send delegates,-send priests or teachers,etc,to represent them.

I247 Q:-Does that declare that they shall be represented as laid down here? A:-It contemplates the same principle.

I248 Q:-Does it declare that it shall be the same system of representatoin as is laid down in this book,-Exhibit "four"? A:-Well that is just a practical application of that principle.

I249 Q:-Will you answer my question Mr.Blair? A:-That is what I am trying to do.

I250 Q:-Well that is just what you are not doing? A:-What is the question?

I25I Q:-Were these elaborated rules in existence prior to I844? A:-They had their rules for governing the church,-for governing their assemblies.

I252 Q:-Did they have these rules,-these identical rules? A:-The principles embraced in there we understand has been the practice of the church from the very first right down to I844.

I253 Q:-Do you know of any rule or practice in that church prior to I844 for instance,that had this provision in it,that I find on turning to section one hundred and eighty on page one hundred and sixty two entitled representation,-no,entitled"Organization and membership of Delegate District Conferences",and which goes on and states that"districts may organize their sessions of conference agreeably to the above rules by providing for delegate conferences,of which the basis of representation shall be one delegate for each six members in each branch or fraction thereof. Districts may constitute priests,teachers and deacons as members of their conference as well as the elders,if they choose." Now what I ask for, is this rule to be found anywhere in the books governing the church prior to I844? A:-The principle is found in them.

I254 Q:-I am not asking you anything about the principle, I am asking you if that is to be found in any of the books that were authorities in the church prior to

I844? Now that is the question and nothing else,and I would like you to answer it Mr.Blair if you can, and if you cannot say so? A:-That was not compiled I think until I876 in the form it is there,but the principle found in there we understand to permeate the church,#the apostolic church,and the church in the book of Mormon right down to I844,-that is to say in the church right down to I844.

I255 Q:-Were the conferences of the church prior to I844 composed of members elected as is provided in the paragraph which I have just read? A:-Conferences were composed of members that were sent up from the various parts of the United States and elsewhere,-sent up by various congregations,as well as those who chanced to live where the conference was being held.

I256 Q:-I believe you admit that this book is a development,and that there is more in reference to these matters regarding representation,than there was on the same subject in any of the old books? A:-Yes sir it may be fuller,and probably is in its details,but it is simply the same principles formulated into specific rules so that the people may learn what they are and become familiarized with them,and therefore when they meet in assemblies or conferences the knowledge may tend to facilitate their work and act more in harmony by reason of the fact that there is a rule to govern them in their deliberations,as to the form and manner of procedure.

I257 Q:-That is your explanation of it? A:-Yes sir.

I258 Q:-Now here is a chapter on page one hundred and sixty two,and it is chapter seventeen,in this exhibit "the articles of association".-

By Mr.Kelley,-"

That is not a part of the book. That is in the same book but it is not a part of the rules governing the church in deliberative assemblies,-although it is a part of the same book,or is incorporated in the book.

By Mr.Southern,-

I259 Q:-Well we will see whether it is or not. Now then is this chapter seventeen entitled "articles of association" on page one hundred and sixty two,a part of the book in which it appears? A;-It is in a manner.

I260 Q:-In what manner? A:-It is within the lids of the book.

I26I Q:-And it has the same authority back of it that the other parts of the book have? A:-It has in its place. It is bound in the same book,for it was decided that they be printed in the same book,and it was endorsed away back,-I don't remember just the date of the articles of incorporation,but it was back in Illinois at an early date,and this provides that they shall be inserted in the same book with the rules of order and debate for the government of assemblies.

I262 Q:-This is the authority of the Conference for the incorporation of the church,-this chapter seventeen entitled "articles of association"? A:-I don't know that it is.

I263 Q:-What is that chapter if it is not that? A:-It is the chapter setting forth the articles of incorporation,but I have not read it.

I264 Q:-Was that chapter authorized by the conference? A:-The articles of incorporation was authorized%.

I265 Q:-Well is that chapter the articles of incorporation A:-I believe so,but I have not read it to see.

I266 Q:-Can you tell whether it is or not? A:-I can tell

by reading.
I267 Q:-Well read it or examine it and say how that is?
A:-Yes sir.
I268 Q:-Well how did that conference of I89I authorize the incorporation of the church? A:-It had been incorporated before that.
I269 Q:-I know that,but did it authorize or direct incorporation ? A:-No sir,but it authorized the insertion of these articles of incorporation in the book of rules.
I270 Q:-Well did it,or did it not,endorse these articles of association,and make them a part of the book of rules?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial and irrelevant and not calling for the best evidence,and not re-cross examination.
I27I Q:-What do you say to that? A:-I do not think I comprehend the question.
I272 Q:-Did it or did it not endorse them? A:-They have been endorsed time and again,and the conference authorized the putting of them in that book.
I273Endorsed by whom? A:-By the entire conference upon due notification.
I274 Q:-Was the original church ever incorporated? A:-I could not say.
I275 Is the re-organized church incorporated now? A:-Yes sir.
I276 Q:-Well were they precisely alike in that respect? A:-I could not say,but it is stated that they were incorporated according to the laws of the land,but as to the history of it I do not know anything much about that.
I277 Q:-Is there any law of the church that authorizes incorporation under the civil laws of the land,-that is,the incorporation of a church under the civil laws of the land?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent and irrelevant,not cross examination and calling for the opinion of the witness.
A:-This aection seventeen of the Doctrine and Covenants (exhibit E.) paragraph one,reads as follows,-" The rise of the church of Christ in these last days, being one thousand eight hundred and thirty years since the coming of our Lord and Saviour Jesus Christ in the flesh,if being regularly organized and established agreeably to the laws of our country,by the will and commandments of God,in the fourth month,and on the sixth day of the month which is called April;which commandments were given to Joseph Smith,junior,who was called of God,and ordained an apostle of Jesus Christ to be the first elder of this church;and to Oliver Cowdery,who was also called of God an apostle of Jesus Christ to be the second elder of this church,and ordained under his hand;and this according to the grace of our Lord and Saviour.Jesus Christ to whom be all glory,both now and forever. Amen." That is the first paragraph of section seventeen in this Exhibit J.,-I said "E" a while ago but it is exhibit J. from which I have quoted;and you will observe it says there "organized and established agreeably to the laws of our country" and I take it when the laws of our country require incorporation we are authorized to so incorporate according to this.
I278 Q:-Now Mr.Blair,do you undertake to say here that an organization of the church by virtue of the law,and an organization of the church agreeable to the law, are the same thing?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is not re-cross examination,incompetent,irrelevant and

immaterial to any of the issues involved in this case,and calling only for an opinion of the witness.
A:-State that question again,please?
I279 Q:-I say,do you undertake to say that an organization of a church by virtue of the law,and the organization of a church agreeable to the law,are equivalent expressions,and mean the same thing? Do you undertake to say that Mr.Blair?
Counsel for the plaintiff objects to the question for the reasons and on the grounds as set forth in the last objection.
A:-Well no,they would not necessarily be,but this paragraph that I have read covers the ground of both because it not only sets forth that it was established and regularly organized and established according to the laws of the country,but that it was done also by the commandment of God.
I280 Q:-There is nothing in the organization or constitution of your church is there,in contravention of the laws of the land? A:-No sir,we claim there is not.
I281 Q:-Well,was there prior to this incorporation?
A:-Not that we are aware of.
I282 Q:-Was there anything prior to the incorporation of this plaintiff,-that is the plaintiff in this case?
A:-Nothing that I am aware of. That is,not in Illinois or Iowa,or any of these central or eastern states. I do not know what the law is in this state so I cannot say.
I283 Q:-Now that you,-that which you have just read,and which has been taken down by the reporter from the book of Covenants,-according to that it is authoritative for the Church of Jesus Christ,-I should say the Re-organized Church of Jesus Christ of Latter Day Saints to incorporate in the state of Iowa,or under its laws?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial,not cross examination and calls for the legal opinion of the witness which the witness is not competent to give.
A:-I can answer that last question by reading this,-"The rise of the church of Christ in these last days being one thousand eight hundred and thirty years since the coming of our Lord and Saviour Jesus Christ in the flesh,it being regularly organized and established agreeably to the laws of our country by the will and commandment of God." Now that is the only answer I can make,for we believe it just as it stands there.
I284 Q:-Now is the civil government necessary to the existence of the re-organized church?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial and not proper re-cross examination,and calling for the opinion of the witness only.
A:-Well that would be owing to circumstances. we do not understand,however,that it is. We understand that there is no conflict between the two. We understand that the civil law provides for the organization of religious bodies or churches and inasmuch as the church is now to be subject to the laws of the land and to its civil rulers,there is a necessity that we should comply with the requirements of the laws of the land in regard to such things.
I285 Q:-Does what you have just stated or read require that you should incorporate under the laws of Iowa, or any other state? A:-Yes sir,I understand that it was so under the law and commandment of God.

I286 Q:-You understand it was done by the will and command of God? A:-Yes sir.

I287 Q:-Where is that command to be found? A:-Right there in that paragraph I have read,-paragraph one of section seventeen in exhibit J.

I288 Q:-Was that ever accepted? A:-Yes sir,it was endorsed by the first church,and it han been also endorsed by the re-organized church.

I269 Q:-Then do you regard the Re-organized Church of Jesus Christ of Latter Day Saints,of which you are the first counselor to the president,an incorporation under the laws of the state of Iowa? A:-Yes sir.

I290 Q:-Well if it is an incorporation under the laws of the state of Iowa,is it not subject to the laws authoλizing such incorporations?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it calls for the legal opinion of the witness who does not profess to be a lawyer,or competent to deliver such an opinion,and on the further ground that it is not re-cross examination and immaterial.

A:-What is the question?

I291 Q:-If it is an incorporation under and by virtue of the laws of the state of Iowa,-I ask the question again,-don't these laws control it? A:-It simply provides that the church shall subject itself in these respects to the laws of the land,and as the laws of Iowa require that all religious orders or denominations shall be incorporated within the jurisdiction of its laws,the church incorporated in obedience to that law as they are directed to do in that paragraph I read,and I take it that the church is required to yield obedience to the laws of the land,whatever part of the world it may be in.

I292 Q:-If these laws that you speak of in the state of Iowa,require or authorize incorporation,is not an incorporation made there subject to these laws,and will it not be governed by them?

Counsel for the plaintiff objects to the question asked the witness on tce ground and for the reason that the same is incompetent,irrelevant and immaterial,is not re-cross examination and calls for an expression of opinion from the witness.

A:-So far as these laws affect it we are bound by them. We are bound by these laws,I take it,within their jurisdiction,for we are commanded to be subject to the laws of the land,and that is an injunction or commandment that has been from the very first repeated time and again.

I293 Q:-Then are not these laws of the state of Iowa,under which the church was incorporated,or has been incorporated,-wouldn't they become a part and parcel of the laws of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is not cross examination and calls for a legal opinion of the witness,which the witness is not competent to give,not being a lawyer.

I294 Q:-If you adopt them and incorporate under them,don't that action govern the church? A:-So far as they relate to the matter of organization under the incorporation they do.

I295 Q:-Then have you not transformed the record of your church from the principles that before prevailed,and adopted the principles laid down by the state of Iowa for its government,-that is,for the government of the church? A:-No sir.

I296 Q:-You have not? A:-No sir,-no more than in the days of Paul,when he said "be subject to the powers that be",-no more than when Jesus said "render unto Caesar

the things which are Caesar's,and unto God the things which are God's."

I297 Q:-When was this commandment received? A:-Having endorsed this commandment which commanded us to do all things in accordance with the laws of the land,we found it was necessary to comply with it as we had endorsed it,and we found it was necessary to incorporate for the reason that the laws of Iowa required it in regard to incorporation.

I298 Q:-Then this incorporation has been made in pursuance of a commandment? A:-Yes sir.

I299 Q:-When was this commandment given? A:-I think it was in '30.

I300 Q:-What time in 1830? A:-I think it was two weeks or such a matter before the church was organized.

I301 Q:-Do you mean to say that in 1830 a command was given that you should incorporate the Re-organized Church of Jesus Christ of Latter Day Saints at Lamoni,Iowa,in 1891? A:-Understand,sir,that the principle was and is laid down here,and it is a principle that the original church accepted,as well as the re-organized church time and again,that the church was organized and should comport itself in obedience to the laws of the land wherever it should be located. We have accepted that as a part of the law for the government of the church by endorsing this commandment,or rather the book of which it forms a part. We have endorsed the book in which we found it,and therefore found ourselves under the necessity of obeying the command as it is there found,and under the principle as it is there laid down.

I302 Q:-Do you mean to tell us that you have a commandment telling you that you must organize under the provisions of a certain chapter of the statutes of Iowa, providing for the organization and government of private corporations?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial,and is not cross examination,and calls for an opinion of the witness.

A:-The commandment demanding the organization of the church or the government of the church in reference to its organization does not mention anything about Iowa,Missouri,Illinois or any other state whatever, and there is no reference in the paragraph of the commandment in referenca to that matter whatever.

I303 Q:-Were these laws under which you have organized the church in existence in 1830 or in 1852? A:-We understand it was of a general nature.

I304 Q:-Were these laws of the state of Iowa under which the re-organized Church of Jesus Christ of Latter Day Saints,has incorporated,in existence at the time that authority from which you quote was accepted by the church? A:-I do not know of my own knowledge.

I305 Q:-Well,historically do you know? A:-No sir, for I am not conversant with the code of Iowa,and so I cannot say as to when those laws went into effect,or when they were enacted. I cannot say as to that,or as to the date of the enactment of the laws touching the organization of religious bodies. I would suggest,if you desire to ascertain that fact that you put Mr. Kelley on the stand,as he can probably tell you.

I306 Q:-Well I have you on the stand and when I get through with you I will consider your suggestion. Now answer me this question,-was Iowa a state in 1830 or 1835? Was it a state at all at that time? A:-I think not.I think it was a territory.

I307 Q:-Then it could not have referred to the laws of the state of Iowa at the time that commandment was given to subject yourselves to the laws of the land, or as I believe it is put,to organize and regulate yourselves agreeably to the laws of the land,-it could not have been the laws of the state of Iowa that were referred to? A:-No sir,it meant as we take it,and I think there cannot be any question about it,-that it was the law of the land the church might find itself in,whether it was the state of Iowa or any other state or country.

I308 Q:-Answer the question,-it could not have been the laws of the state of Iowa? A:-No sir,for I think at that time Iowa was a territory,and what the territorial laws were at that time I could not say,nor do I know that they had any touching the subject.

I309 Q:-Well do you undertake to say that it refers to the territorial laws of Iowa when it was a territory or the laws of Iowa enacted after it became a state? Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is apparent that the question is only put to the witness for the purpose of annoyance,and with the full knowledge of the counsel for the defendant that his question is immaterial and incompetent,and has no bearing on any issue involved in the case,and for the further reason that it is not re-cross examination.

XXXX A:-You will persist in misunderstanding me,Colonel,-I do not say that it had special referenca to the laws of Iowa,-I say that it refers as we understand it to the laws of any country at any time and in any place where the church may find itself located,and the principle taught is that of obedience to the laws of the country,it matters not what the country is where the church is planted and where an organization is to be effected for the purpose of carrying on the church work,then the principle or command is applicable there at that place. Now that is our understanding of it.

I310 Q:-Do you mean to say that a church cannot organize unless it organizes as a corporation? A:-As a religious body it can organize for church purposes,-for purely religious purposes,-but in this commandment to the effect that we establish and organize ourselves in compliance with the terms of the laws of the land it is meant as we understand that when there is a law regulating the organization of religious bodies that we shall comply with it,-that is,with the provisions of the civil law.

I310 Q:-Do you undertake to say that because Iowa had laws authorizing the incorporation of a church,that you were compelled to organize? A:-We certainly understood that it was our duty to do it.

I311 Q:-You were commanded to do it? Is that it? A:-We were and are commanded to be subject to the powers that be.

I312 Q:-And that was as early as I830? A:-It was as late as I830,-and it was before the church was organized. It was in June I829.

I313 Q:-Was there any other incorporation of the re-organized church besides the one in Iowa? A:-Yes sir.

I314 Q:-How many? A:-There has been various incorporations

I315 Q:-Was there ever an incorporation of the church prior to the death of Joseph Smith? A:-I cannot tell you,-but this declares there was.

I316 Q:-Well if it declares there was,don't it declare a falsehood? If it declares there was an incorporation of the church before the death of Joseph Smith does it not declare a falsehood? A:-Not that I know of.

I317 Q:-Well now will you show any authority anywhere to the effect,-or showing that the church was incorporated prior to 1844 under the laws of any state?
A:-Prior to 1844.
I318 Q:-Yes sir. A:-I am not posted in regard to that. But I will see.Now here in Exhibit J. section forty four,paragraphs one and two,it says,-"Behold thus saith the Lord unto you my servants,it is expedient in me that the elders of my church should be called together from the east and from the west,and from the north and from the south,by letter or some other way.
And it shall come to pass that inasmuch as they are faithful,and exercise faith in me,I will pour out my spirit upon them in the day that they shall assemble themselves together. And it shall come to pass that they shall go forth in the regions round about,and preach repentance unto the people;and many shall be converted,insomuch that ye shall obtain power to organize yourselves according to the laws of man,that your enemies may not have power over you,that you may be preserved in all things,that you may be enabled to keep my laws,that every band may be broken wherewith the enemy seeketh to desrtoy my people."
I319 Q:-Now do you interpret that to mean that they,-that you should go and incorporate according to the laws of any state? A:-Yes sir,where the laws of ~~that~~ The state require it.
I320 Q:-That is the interpretation you put on that paragraph? A:-Yes sir,and that is what it is,-that they should in all cases act in accordance with the laws of man,which is the law of the land we take it.
I321 Q:-This is what I want to know,-do you mean that to say they shall incorporate under the laws of the state? There can be no such an interpretation put upon that? A:-Well that is where we differ,for we think there can be no other interpretation put on it than what I have stated,and that is that the church was to comply with the laws of the land wherever it might be located.
I322 Q:-Do you undertake to say that the laws of the state of Iowa require the re-organized church of Latter Day Saints to incorporate? A:-What is that?
I323 Q:-I asked you if you undertook to say that the laws of the state of Iowa required the re-organized church of Jesus Christ of Latter Day Saints to incorporate?
Counsel for the plauntiff objects to the question asked the witness on the ground and for the reason that the same is incompetent and immaterial,not cross examination,and not the best evidence of the fact sought to be proven.
A:-I cannot say.
I324 Q:-You do not then pretend to assert that that is a requirement of the laws of the state of Iowa? A:-I do not pretend to say whether it requires it,or whether it permits it simply. I do not say how it is.
I325 Q:-If you incorporated under the statute,-incorporated your church under the statute,does not that statute become the law of your church?
Counsel for the plaintiff objects to the question asked the witness on the ground that the same is not cross examination,and is immaterial to any of the issues in ~~t~~ this case,and calls for the legal opinion of the witness which the witness is incompetent to give.
A:-No sir,it does not necessarily become a law in ~~th~~ the church,but it becomes a law governing the church so far as the incorporation is concerned,-that is,a law governing the church in the administration of the temporal affairs of the church,but not the spiritual affairs of the church.

I317 Q:-Well now will you show any authority anywhere to the effect,-or showing that the church was incorporated prior to I844 under the laws of any state?
A:-Prior to I844.
I318 Q:-Yes sir. A:-I am not posted in regard to that. But I will see.Now here in Exhibit J. section forty four,paragraphs one and two,it says,-"Behold thus saith the Lord unto you my servants,it is expedient in me that the elders of my church should be called together from the east and from the west,and from the north and from the south,by letter or some other way.
And it shall come to pass that inasmuch as they are faithful,and exercise faith in me,I will pour out my spirit upon them in the day that they shall assemble themselves together. And it shall come to pass that they shall go forth in the regions round about,and preach repentance unto the people;and many shall be converted,insomuch that ye shall obtain power to organize yourselves according to the laws of man,that your enemies may not have power over you,that you may be preserved in all things,that you may be enabled to keep my laws,that every band may be broken wherewith the enemy seeketh to desrtoy my people."
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I320 Q:-That is the interpretation you put on that paragraph? A:-Yes sir,and that is what it is,-that they should in all cases act in accordance with the laws of man,which is the law of the land we take it.
I321 Q:-This is what I want to know,-do you mean that to say they shall incorporate under the laws of the state? There can be no such an interpretation put upon that? A:-Well that is where we differ,for we think there can be no other interpretation put on it than what I have stated,and that is that the church was to comply with the laws of the land wherever it might be located.
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I324 Q:-You do not then pretend to assert that that is a requirement of the laws of the state of Iowa? A:-I do not pretend to say whether it requires it,or whether it permits it simply. I do not say how it is.
I325 Q:-If you incorporated under the statute,-incorporated your church under the statute,does not that statute become the law of your church?
Counsel for the plaintiff objects to the question asked the witness on the ground that the same is not cross examination,and is immaterial to any of the issues in ~~t~~ this case,and calls for the legal opinion of the witness which the witness is incompetent to give.
A:-No sir,it does not necessarily become a law in ~~th~~ the church,but it becomes a law governing the church so far as the incorporation is concerned,-that is,a law governing the church in the administration of the temporal affairs of the church,but not the spiritual affairs of the church.

I326 Q:-Then it is a law governing the church? A:-So far as the incorporation is concerned it is.
I327 Q:-Well has not the church by that incorporation, made the act of incorporation its law?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial, not cross examination, and calls for an opinion of the witness.
A:-No sir, not the way I look at it,-they have simply accepted it and acted in conformity with the requirements of the laws of the land, and I cannot see that it necessarily follows that by so doing they have made it their law.
I328 Q:-Has it not accepted and made the laws of the state by this act of incorporation, its own law? A:-No sir, not in respect to the church as far as the spiritual concerns of the church is concerned, for it is simply a compliance with the laws of the land touching the question of incorporation so as to place the church in harmony with the laws of the land.
I329 Q:-Is it not your underatanding that all other denominations have been incorporated in Iowa under the provisions of that same law? A:-I cannot say.
I330 Q:-Do you undertake to say that this law was made for your church to incorporate under?
Counsel for the plaintiff objects to all the foregoing examination touching the question of incorporation under the laws of Iowa, and the reasons and effect for and of so doing, on the ground that it is incompetent, irrelevant and immaterial, and calls for an opinion of the witness and is not proper re-cross examination, and moves the court to strike the answer of the witness from the record for the same reason.
A:-No sir.
I33I Q:-Then if the re-organized church has made a law of the state of Iowa its rule of action,, has it not adopted a rule of action that never prevailed in the church prior to I844 at the time of the death of Joseph Smith?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial, and assumes a fact not in proof and which is denied to be a fact by the plaintiff in this case.
By Mr.P.P.Kelley,-"And the plaintiff now and here specifically denies that they have adopted the statute of the state of Iowa as the law governing them, but only have incorporated under the laws of the state of Iowa governing religious bodies, and which- requires such incorporation.
A:-I understand that the commandment that I have already read is a general commandment applicable to the church in all places and under all nations and under all circumstances, so far as organization or incorporation under the laws of the nation or place where the church may be located is concerned, and which is provided by these nations.
By Mr.Southern,-
I332 Q:-Are not your answers to my questions un-candid, unfair, evasive, and nor responsive to my questions?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that the same is immaterial and irrelevant and not cross examination.
A:-I do not esteem them so.
I333 Q:-You do not? A:-No sir.
I334 Q:-Now Mr.Blair-can you tell me what authority the laws of the state of Missouri gives your church over the control of property in the state of Missouri?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is not material or relevant to any issue in this case,is not cross examination and calls for the legal opinion of the witness.

A:-I cannot do so sir.

I335 Q:-You cannot tell that? A:-No sir,I cannot for the reason that I do not understand the laws of Missouri. I do not know what the laws of Missouri are,and that is a question to be determined hereafter,-that is what there is in the case I suppose.

I336 Q:-Now is it not a fact,Mr.Blair,that this very book here,-Exhibit "four" that we have here in evidence and from which both sides have read and quoted at some length,-is it not a fact that t his book was prepared with especial reference to this case being brought in which we are now engaged in taking testimony? A:-I never heard of such a thing.

I337 Q:-Do you swear that this book was not prepared with special reference to this very case that we are now engaged in taking testimony in,and with special reference to be used on this trial? A:-I never heard of such a thing sir,and I say that I never even thought or dreamed of such a thing at the time it was prepared nor for many years afterwards.

I338 Q:-I may have asked you this question before and possibly you have answered it,but if so I do not recollect ever having asked you,but if I have I hope you will pardon my asking it again. I will ask you when this book was completed? A:-It was completed ~~th~~ this year,-that is to say,in '9I,-last year.

I339 Q:-About what time in '9I was it completed? A:-Well it was probably two or three months ago,-probably four months ago. The material,however,of which it is composed was acted on in the spring of '9I at the spring conference. It was endorsed then by the Conference and the board of publication had to put it in form,-in other words,to print it.

I340 Q:-I will ask you this question Mr.Blair. In your examination by the plaintiffs or complainants here you stated that the body of the church went from Far West to Nauvoo,-did you mean by that that the whole body of the people that were at Nauvoo went there? A:-I did nor state anything of the kind.

I34I Q:-Well it was stated here in testimony by some one. I will ask you if that was the fact? A:-No sir,it was not so stated by me for such are not the facts. There were large bodies of the people scattered around at different places that never came into Missouri,but the body that was here.represented the chief officers of the church,and the largest gathered body,for there was about fifteen thousand said to have been in central Missouri.

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Sworn to before me on the day,within the hours and at the place in that behalf first aforesaid,and subscribed in my presence this day of 1892.

.....

Notary Public.

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Ms d 1160 Box 1 fd 6

Henry A- Stebbins of lawful age,being produced,sworn and examined on the part of the complainaints herein,testified as follows,-

Direct examination by Mr Kelley,-

I Q-Please state you name to the reporter? A-Henry A. Stebbins is my name.

2 Q-Where do you live Mr Stebbins? A-At Lamoni,Iowa.

3 Q-How long have you lived there? A-Ten years,-no eleven years last November.

4 Q-What is your business Mr Stebbins? A-I am Secretary and Recorder of the church,and also a minister in the church.

5 Q-Of what church are you the Secretary and Recorder A-The Reorganized Church of Jesus Christ of Latter Day Saints.

6 Q-The complainant in this case? A-Yes sir.How is that?

7 Q-You are the Secretary and Recorder of the church which is the complainant in this case in which your testimony is being taken? A-Yes sir.

8 Q-And that is the Reorganized church of Jesus Christ of Latter Day Saints? A-Yes sir.

9 Q-Well how long have you been Secretary and Recorder of the church? A-It will be since April I879 that I have been Recorder of the church,and I have been Secretary sine April I875.

I0 Q-Were you present at the conferene of the church held at Kirtland Ohio in I89I? A-Yes sir

II Q-And were you the Secretary of that conference? A-I was.

I2 Q-I will ask you to look at page fifty six of exhibit "five"and state to the reporter whether you recognize that as a part of the record of the conference held at Kirtland? A-This here in relation to the articles of incorporation do you mean. Is that what you refer to?

I3 Q-Yes sir? A-Yes sir I recognize that.

I4 Q-You may read that to the reporter? A-It is headed "Re-incorporation of the church",and it reads,-"The subject of the reincorporation of the church was taken up,and the following was moved and adopted,- "That a committeee of three be appointed to prepare articles of incorporation in harmony and in conformity with the present incorporation under the laws of the state of Illinois,the same to be used to further incorporate the society in the state of Iowa, and other states by vote of any large branch or stake in ~~any~~ such states as provivded by the laws of the-same.

President Blair appointed as said committee,Brethern Joseph Smith,E.L.Kelley,and Robert Winning. Quite a discussion followed,-

I5 Q-Well you need not read that,-the first paragraph is all that is necessary,-?

By Mr Southern,-"Let him read all of it".

By Mr Kelley,-

I6 Q-Very well,-read it all? A-"Quite a discussion followed concerning the right of the chair to appoint an absent brother,and one if present would not be an ex-officio member of the conference. The chair held that he was right. His decision was appealed from-but the body sustained the chair."

I7 Q-I had you read that as he wanted it read,so that there would be no ocassion to go over it on cross examination,as Mr Stebbins is very anxious to get away from here as soon as he possibly can. Now I will ask you Mr Stebbins if you know from your travels in the different churches or branches of the church,and by correspondence,the number of churches or branches of the reorganized church of Jesus Christ of Latter Day Saints there is? A-Wherein lo-cated,-do I know the number?

8 Q-Yes sir? A-Within what limits?

I9 Q-Within the United states I mean Mr Stebbins? A-About four hundred who are now existing as organizations,besides one hundred and fifty that are more or less in a disorganized state,by reason of removal or departure of officers for other locations,about four hundred are now existing as organized bodies with officers and holding regular sessions or meetings.

20 Q-Do you know about the membership in the United States? A-Yes sir approximately I do.

2I Q-Well about what is it? A-From twenty two thousand to twenty five thousand,-from twenty two thousand I would say to twenty five thousand.

22 Q-I will get you to state Mr Stebbins,if you know, how many of the principle officers of the reorganized church,-I mean to say how many of the principle officers of the original church,or organization,-the church organization,-founded in I830,afterwards united with the reorganization? A-Do I know about how many of them?

23 Q-Yes sir? A-Yes sir.

24 Q-Well give the offices that they held in the original church? A-My knowledge is derived from personal acquaintance and the records of the church. Now by knowledge that I have received from various sources there was a good many who had belonged to the original church at Nauvoo that united with the reorganization,-there was the President of the stake there at Nauvoo,-I mean to say the President of the high council there at Nauvoo,-one of the quorom of twelve,and at least twenty one of the high priests, eighteen of the quorom of seventy,and at least from two hundred to three hundred,and perhaps more of the elders,-to say nothing of the lesser priesthood as they are called,-priests,teachers,and deacons.

25 Q-Mr Stebbins ~~you can~~ can you give in round numbers the number of persons that belonged to the original church that afterwards became identified with the reorganized church? Now I am calling for both officers and members,-both the people or simple laity and the officers of the original church,who afterwards became associated and identified with the reorganized church? A-Well I would consider that it would be within bounds,and upon this I speak in reference to the officers also. Now so far as my acquaintance leads or goes of course I do not profess to have full knowledge except from the records,and the knowledge on the matter that has come to me in connection with my official connection with the church from correspondence,etc,and in that way,and also by individual information,-I think it would be safely within bounds to say from three to five thousand as the number. That is to say from three thousand to five thousand of the members who belonged to the original church,united with the reorganization from I853 down to the present time at different times during ~~in~~ that period. And I will say further that they are still uniting with the reorganized church. Now there may have been more than that,but I do not wish to state with any greater degree than certainty,-of certainty than I have as to the number,neither would I say that there was that many,but that is my judgement from my acquaintance and the records and correspondence I have. had.

26 Q-And that would be from three thousand to five thousand in your best opinion? A-Yes sir.

27 Q-Now I would ask you Mr Stebbins if this exhibit marked Exhibit N,has been in you possession as secretary and recorder of the church since you have held that office? A-Yes sir.

28 Q-I will get you to look at page thiry seven near the bottom of the page,and state to the reporter in whose hand writing the word "Hedrick"appears to be in the motion reading as follows,"on motion Brother J.W. Briggs was appointed to co-operate with brother Hedrick and writing out a pamphlet setting forth the true position of our doctrines". State in whose hand writing the word "Hedrick" appears to be in as set forth in that motion? A-What is the question?

29 Q-The question is in whose hand writinh or in whose hand is the tracing of the word"Hedrick"? A-There is evidently two writings there.

30 Q-Well I mean the last one,-the one in black ink? A-My own writing this darker ink is,-this is the darker ink in my hand writing.

3I Q-I will ask you if you can turn in that book to the same resolution on another page? A-Yes sir.

32 Q-What page is it? A-Page Thirty nine.

33 Q-I will ask you if the reolution on Page thirty nine is in the same identical language with the res olution I have just read to you from page thirty seven? A-It is.

34 Q-I will ask you to read the resolution on page thir -ty nine to the reporter? A-"On motion J.W. Briggs was appointed to co-operate with brother Hedricks in writing out a pamphlet,setting forth the true position of and for the church".

35 Q-Now I will ask you Mr Stebbins what the original name was in that resolution on page thirty seven, before the tracing was done by you? A-It was "Hed- ricks".

36 Q-It was originally spelled H e d r i c k s? A-Yes sir-

37 Q-What is it now? A-"Hedricks".

38 Q-I will ask you now Mr Stebbins how the word "Hed rick" is spelled in the resolution on page thirty nine? A-Hedrix. As near as I can make it out that is the way it is spelled on page thirty-nine.

39 Q-I will ask you if you can identify the same name in another part of the record? A-Yes sir.

40 Q-Where? A-On page forty one in the record of the proceedings of the succeeding ~~xxxxxxxxx~~ general conference. It reads"on motion ~~J.X.XXXXXX~~ it was resolved that Jason W. Briggs be,and is truly exon- erated from acting in connection with Granville Hedricks of Bloomington in writing out matter for publication as directed by the fall conference pre- vious."

4I Q-How is the word"Hedrick"spelled in that record you have just read? A-"Hedricks".

42 Q-It is spelled"H e d r i c k s? A-Yes sir.

43 Q-I will ask you Mr Stebbins what officer of the re- organized church has the custody and control of the title papers to real estate,deeds,and other instruments of that character,if you know? A-The Bishop of the Church.

Cross examination by Mr Southern,-

44 Q-Turn to the first page on which you find the name "Hedrick"traced? A-Yes sir.

45 Q-What page is that? A-Here it is on page thirty seven.

46 Q-You say you traced it there? A-Yes sir.

47 Q-At what time did you trace it? I can't say.

48 Q-About when did you do it? A-Well I don't know that I have an idea in relation to the time it was done.

49 Q-Has it been done since the record came into your hands? A-Yes sir.

50 Q-When did that record come into your hands? A-It will be eighteen years ago this coming April.

51 Q-It will be eighteen years ago this next April since this record came into your hands? A-Yes sir.
52 Q-What year was that? A-I874.

53 Q-When was that record made,-that is when was it written there? A-Well that I do not know,but I suppose at the time of the reorganization of the church
54 Q-In I852? A-In I853 the church was reorganized.
55 Q-In I853? A-Yes sir,and this is the minutes of I857.
56 Q-That is in I857,-that record is for '57? A-Yes sir,and I suppose the record was written then.
57 Q-Now you say this record you suppose was writtnn in '57,and the records that contain it did not come into your possession until I874? A-Yes sir.
58 Q-And that record remained in the condition in which it was originally written from I857 down to I874 the time that it first came into your possession? A-Yes sir,-from the time it was written whenever that was,down to the time I got it.
59 Q-It remained in that condition without being changed A-Yes sir.
60 Q-And you changed it ? A-I did.

61 Q-Why did you change it? A-Well I did not change it to any material extent. I did not change it with the exception of striking out the letter "s". The writting or ink with which it was written was dim, and although it could be seen I did not think it made any difference in striking out that letter "s" for the reason that that was the way the word or name was spelled,and I did not think there would ever be any question on that point at all,so I struck it out,for it was evidently an error on the part of the secretary who compiled the books in writing it that way.
62 Q-You assumed that there was an error in the original writing and took upon your self the authority to change it? A-Yes sir. There was no object in writing over it at that time other than the correction of the error in the spelling,and tracing the name over again in ink that could be readily seen. The original writing can now to some extent be seen there yet as for instance the top partof the "k",as can be portions of all the letters composing the name in the original writing. It was rather dim as I have stated,and there being no question,or prospect of a question being raised about it I wrote it over again,understanding tge name was "Hedrick" instaed of "Hedricks".
63 Q-Well I would like you to state if you can about what time you did that? A-I beleve it was not less than ten years ago.
64 Q-Did you do that by order of the conference? A-No sir.
65 Q-Did you do it by order of anybody? A-No sir.
66 Q-You just did it upon your own motion? A-Yes sir.
67 Q-Have you taken care of all the other parts of that record in the same way as you have done that? A-I have taken care of it to the best of my ability ,-that part and all the rest.
68 Q-Have you made any other changes in that record aside from that change? A-I don't know that I have-
69 Q-Well you would know it if you had,wouldn't you? A-I cannot say.
70 Q-The records were in your possession? A-Yes sir. I would know by examination if I had.
71 Q,But you do not know from memory whether you did or not? A-No sir.

72 Q-Now you say,I believe,that you struck out an "s" there? A-Yes sir.
73 Q-In the name? A-Yes sir.
74 Q-And what did you do that for? A-So it would agree with the resolution following exonerating Jason W. Briggs from acting with Granville Hedrick,where the name is"Hedricks"
75 Q-If you struck out the "s" there it does not agree A-Yes sir,it does not agree,-that is true.
76 Q-It does not agree with that resolution then? A-No sir,-not altogether. It does excepting in that respect.
77 Q-Well did you change any other word in that record in '57? A-No sir,
78 Q-Why didn't you? A-Well I had no other reason that I know of to change it.
79 Q-Now then on your direct examination you turned over to page thirty nine and referred to that did you not? A-Yes sir.
80 Q-And explained that was another record there? A-What is that?
81 Q-You explained there was another record of the same thing on page thirty nine? A-I was asked in my direct examination if there was another copy of that record there,and I said there was substantially a copy of it there,and read it.
82 Q-You stated there was another copy there? A-Yes sir.
83 Q-Did you state that that copy of the record had been erased? A-No sir-
84 Q-Did you state there had been a line drawn through it from top to bottom? A-No sir,
85 Q-You did not state anything about this? A-No sir.
86 Q-Well is it not a fact that there is a line drawn through it from top to bottom? A-Yes sir.
87 Q-Now why did you not state that there was a line drawn through it showing that there was an erasure? A-Well,I was not asked the question.
88 Q-Did you state that record was not signed and certified? A-No sir.
89 Q-That is the fact is it not? A-Yes sir.
90 Q-Why did you not state that? A-Well I was not asked the question.
91 Q-Well now if that is an erased record,why did you read from it at all? A-Why did I read from it,-simply because I was asked to do so.
92 Q-Let me look at that for a moment please? A-Here it is(witness hands counsel for the defence the record regarding which he is testifying).
93 Q-Now you have stated I believe that on page forty one is a reference in a resolution numbered third to the same name as it appeared on page thirty seven,changed as has been stated,have you not? A-I read it as I was requested to do.
94 Q-Have you not stated there was a referenc there to the name? A-I so understand it.
95 Q-You say you so understand it? A-Yes sir,
96 Q-Now do you know it? A-Do I say that I know it or knew it?
97 Q-Well I ask you if you do know it? A-I answer that that I do not.
98 Q-You do not say that you do know it? A-No sir.
99 Q-Well what do you say about it? A-I say just this in regard to it that the record that follows exonerates J.W. Briggs from acting in that capacity to which he was appointed at the previous conference.
100 Q-Does this resolution

previous conference? A-It so says.
101 Q-Where? A-
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason it does not call for the best evidence.
102 Q-Where does it say that? A-Right there.
103 Q-Does it make any reference to the previous resolution? A-It don't have to, for the ~~revelation~~ resolution speaks for itself.
104 Q-Yes sir, I know that. I will ask you now to look at the third resolution of which you have been speaking, and say if there is enough in that to carry out your opinion?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it does not call for the best evidence as the resolution speaks for itself as to its contents and meaning, and the question asked the witness calls for his opinion.
105 Q-Answer the question? Have you given all the answer you want to give to that question? A-I don't see how I can make it any clearer by answering further.
106 Q-You have given all the answer you can to that question then? A-Yes sir.

107 Q-From whom did you receive that record? A-I received it from the hands of the family of the original,-that is I should say I received it from the family, or the church did, of the former recorder of the church, Mr Isaac Sheen, who died just two days before the sitting of the conference of 1874, and it was in the hands of his family with the church records, and before the close of that conference I was appointed church Recorder, and not a great while afterwards the ~~church~~ records were delivered into my hands.
108 Q-Who composed his family? A-The family of Mr Sheen?
109 Q-Yes sir? A-Well he had a wife and two daughters and a son.
110 Q-How old was the son at that time? A-I don't know that I can tell you just how old he was at that time, but it was some where near manhood, or about the beginning of manhood.
111 Q-From whose hands in that family did you receive that record? A-Directly from their hands do you mean?

112 Q-Yes sir? A-I think they were not delivered direct-ly into my hands, but were turned over to the church through a process of law and were received by the officers of the church,-They were received I think by the officers of the law & think at first and by the officers of the law turned over into the hands of the officers of the church, and by them delivered to me.
113 Q-Then if that be the case Mr Stebbins why did you state a moment ago that you received them directly from the hands of the family of Mr Sheen? A-Well I probably stated that without a thought of the fact that there was a process of law in relation to the matter. It did not matter much for I was the succeeding Recorder of the church and I suppose I meant without thing of the fact to state that they passed into the hands,-directly into my hands as the successor of Mr Sheen. I had no intention for a moment of misleading anyone, but meant that I received them as the successor, and without any thought of the process of law that was had there to get possession of the records.
114 Q-Well now after having thought the matter over, will you-state from whom you received them? A-I received them at the hands as I remember now,-yes, his name was Byron Shouts,-that was the name of the party I received them from.
115 Q-Byron what? A-Shouts(???).
116 Q-And you do not know of your own knowledgr from whom

them? A-No sir if it comes dowl to a question of my own personal sight I do not,-excepting this,that I saw them in the hands of the family,the same day that they went out after them.

II7 Q-What did you see? A-These two records,-that is this book and the index to the record,which were then the only records,no,I make a mistake there,-there was the beginning of a second record. This is record "A",and there was the beginning of record "B",-I remember that now,and I saw them in the hands of the family there the same day,probably two or three hours before they were taken by the constable, and with himself he took me and them in his buggy to Sandwich Illinois,-five miles from where the family was.

II8 Q-Then they were taken by process of law? A-Yes sir

II9 Q-Do you know why it became necessary to take them by process of law? A-Yes sir,-I think I do at least.

I20 Q-Well please state what the re son was? A-Well for the reason that the church like any other corporatinn or body has a right to its own records,-its own books of record and property,and after the death of Isaac Sheen,the church through its officers,made request of his family for those records,and a refusal was made to the demand or request to give them up,and when the proper request had been made,and had been met with a refusal to give them up,then the church by its Bishop at that time,caused a paper to be got up,and demand made for them by the proper officer of the law, and then they were delivered to the officer,and so the church came into possession of them again.

I2I Q-Well doubless you intended that as an answer to my question,but I do not consider that it is an anwer, though I do not believe that you purposely avoid ans-wering it. What Iwanted to inquire about was the grounds upon which they based that refusal?

Counsel for the plaintiff objects to the question asked the witness on the grounds that it is irrelevant and immeterial,and not cross examination.

A-That would he a matter that would rest within their own minds?. It would be their own opinion or judgement,and so I cannot say.

I22 Q-Exactly,-that is what I called for? A-I am not prepared to answer that question, I am not prepared to answer the question as to what their reasons or motives were for the course they pursued.

I23 Q-Did you not talk with them about it,-about that? A- Yes sir.

I24 Q-Well what reasons did they give you?

Counsel for the plaintiff objects to the question asked the witnessfor the reasons and on the grounds that it is irrelevant and immeterial,not cross examination and hearsay.

A-Well I can't say that they presented any reasons, excepting that they did not want to guve them up. I know of no other reason that I now think of.

I25 Q-Was there any financial claims involved in the matter?

Counsel for the plaintiff objects to the question asked the witnesson the grounds and for the reasons set forth in the last preceeding objection.

A-There was something due Mr Sheen at the time of his death,but the promise or agreement was made that this should all be settled upon information or bill presented for acceptance or payment by the church throu-gh its proper officer,the bishop. There was no refusal upon the part of these officers so far as I am informed to pay this bill when it should be presented,and it was properly presented and paid as I am in-formed at the following conference.

I26 Q-What conference was that? A-It was by action of the conference,-the general conference that met in September following

I27 Q-They took the books however,without paying the people? A-Certainly they took the books,but with a promise to pay it at the proper time,and in the proper way,however.

I28 Q-Do you know when that erasure on page thirty nine was made,by the line being drwn through it? A-No sir

I29 Q-Was it made at the time the book came into your possession? A-Yes sir. It was made before it came into my possession-

I30 Q-Are there any other such erasures in the book that you know of? A-Not sir Not that I know call to memory. I presume that that line through there,was because it was a repetition of that that had gone on page thirty seven. That was and is my presumption and belief,because the page is morally and in fact a repetition of what is on page thirty seven of the minutes of that conference mentioned there.

I31 Q-Now you spoke a minute or so ago about a corporation or organization having a right to its own records? A-Yes sir.

I32 Q-I will ask you if the claims to that record you speak of were made by the corporation?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial,not the best evidence,and not cross examination.
-A-It was made by the proper officers of the incorporation.

I33 Q-What date was that? A-That demand for these recor-ds?

I34 Q-Yes sir? A-On the seventh day of July 1874.

I35 Q-Was the Reorganized church of Jesus Christ of Latter Day Saints an incorporation at that date? A-Yes sir.

I36 Q-What did you say was your position in the church at the present time? A-I am Secretary and Recorder in the church,as well as a minister.

I37 Q-Are you therefore the Secretary and Recorder of a corporation? A-No sir.

I38 Q-You are not? A-No sir.

I39 Q-What relation do you bear or sustain to the complainant in this case? A-I suppose the church is the plaintiff,or complainant in this case,and as a member of the body,-a minister of the body,-Secretary and Recorder of the body,-I stand in that position to the complainant,-that is the position of occupying those relationships to the body,-whatever they may be.

I40 Q-You say you suppose that church is the plaintiff? A-Yes sir.

I41 Q-Well do you or do not know that it is the plaintiff A-Such has been stated here.

I42 Q-I am asking you for your own knowledge? A-Yes sir, I may say I know.

I43 Q-That the church is the plaintiff? A-Yes sir.

I44 Q-Is the church to which you belong,and of which you are one of the officers,an incorporation? A-The church as I understand it is an incorporation for the purpose of carrying on its temporal affairs. I understand that for the purpose of carrying on its business it is incorporsted under the laws of the land.

I45 Q-What was the object of its incorporation? A-It was incorporated for the purpose of carrying on its business affairs,holding land,and giving it the right to sue,and be sued and whatever rights,immunities or obligations-are conferred under the laws of the state where the incorporation occurs. In that sense it is an incorporation and has the right to transact its business as a corporation.

I46 Q-What relation do you sustain to the branch at Lamoni,Iowa?
Counsel for the plaintiff objects to the question asked the witness

on the ground that the same is immeterial and not cross examination.

A-Well I am a member of the ~~church~~ branch

I47 Q-At Lamoni,-you are a member of the ~~church~~ there you say? A-Yes sir.

I48 Q-Is that all? A-That is all at the present time.

I49 Q-What relation did you have,if any,to an incorporation effected by that branch in Lamoni in I89I?

A-Ask the question again please.

I50 Q-What relation if any did you have in connection with the incorporation of that branch at Lamoni,Iowa,of which you say you are now a member,in the year I89I?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the question assumes a fact to be true and in proof which is not,and on the further ground that it is irrelevant, immeterial,not cross examination,and not the best evidence.

A-The branch is not incorporated.

I5I Q-I said "effected by that branch"? A-I do not know that I am able to answer that question

I52 Q-Do you know anything about an incorporation purporting to be an incorporation of the church at Lamoni, in I89I? A-Yes sir.

I53Y Q-Well what do you know about it? A-I know that such papers were drawn up and signed by quite a number of the people.

I54 Q-What relation did you have to them? A-To what?

I55 Q-To these papers that you speak of that were drawn up by ~~you~~ and signed by quite a large number of the people,and to the incorporation? A-Well my name was signed to this one(referring to the list of names attached to the printed copy of the articles of incorporation in evidence as exhibit A) In connection with others my name was signed to this

I56 Q-Do you hold any position in that incorporation? A-No sir,I do not understand that I do.

I57 Q-What is your business in the church? A-Why as I have explained I am the recorder and secretary of the church. I am the recorder of the church tot one thing.

I58 Q-What are your duties as recorder? A-Keeping a record of all the names of the members in accordance with the laws of the church.

I59 Q-What record is that? A-The record of membership and officers.

I60 Q-You said you are also secretary? A-Yes sir.

I6I Q-What are your duties as church secretary? A-As to issue letters of appointment,licenses,and attending to correspondence,etc.

I62 Q-And what is your proper ministerial office,or function? A-I am a member of the quorom of high priests

I63 Q-Then you are an high priest? A-Yes sir.

I64 Q-Do you maintain that you are an high priest of a corporation,-of that corporation that was effected there in I89I?

Counsel fot the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial,callilg for an opinion of the witness,and not cross examination.

A-No sir,I do not know of any such a thing.

I65 Q-Do you maintain that you are the secretary and recorder of the incorporation effected at the time you have mentioned?

Counsel for the plain tiff objects to the question asked the witness on the grounds as stated in the last objection herdinbefore set forth.

A-No sir.

I66 Q.-You do not? A-No sir.

I67 Q-Have you ever attended any meetings of that incorporation? A-No sir,I don't know that I have.
I68 Q-Do you know whether it has a President and Secretary?
Counsel for the plaintiff objects to the question asked whe ~~the~~ witness on the grounds and for the reasons that the same is incompetent,irrelevant and immeterial, not cross examination.
A-Unless as I understand,the Bishop is the presiding officer over the fiancial and business affairs of ~~the~~ or matters of the church and has such charge.
I69 Q-I believe you stated that there belonged to the re organized church,or had belonged to it from the time of its first inception down to the present time, eighteen of the first quorom,-the original quorom of seventy? A-Yes sir.
I70 Q-How do you asertain that fact? A-I have been personally acquainted with quite a nuber of them,and I have examined the record that is upon the church records,and in the church papers,-the official church organs or papers,-the one known as the "Times and Seasons",the"Evening and Morning Star"the"Messenger and Advocate",and the names of the officers mentioned there as holding such and such places in the church,and having been-personally acquainted with a portion of them,and also in the recording of names I have recorded the identical names with the dates of ordination away back in the thirties,-from 1830 down. Now by these various methods of acquaintances and by comparing records,and from keeping the records,I am made aware that such is the case.
I7I Q-And such as you-have mentioned are the grounds upon which you base your judgement? A-Yes sir,and from personal acquaintance as I have stated,with quite a number of them.
I72 Q-Did I understand you to say that the quoroms of seventy,or the quorom of seventy? A-I don't know ~~w~~ which I used,for there was quoroms of seventy prior to the death of Joseph Smith.
I73 Q-Will you state how many quoroms of seventy there was prior to the death of Joseph Smith? A-I cannot say as to that.
I74 Q-Have you any records that will indicate to you how many quoroms of seventy there ~~were~~ were prior to the death of Joseph Smith? A-Well I have never made it a point to investigate the matter to asertain,therefore I could not say.
I75 Q-Was there more than one? A-Yes sir.
I76 Q-You are satisfied there was more than one? A-Yes sir,I am satisfied of that.
I77 Q-Do you think there was as many as five? A-Well I couldn't say,but I really think there was.
I78 Q-You think there was as many as five? A-There was as many as that I think. There was two men in the re-organized church who was presidents of seventies,-Josiah Butterfield,and Zenas H. Gurley,but how many quoroms of seventy there was I could not say.
I79 Q-But you do say that all the men you could find in the reorganized church ~~xxxx~~ who were members of the quoroms ~~in~~ of seventied in the original church were eighteen'? A-No sir,I do not state that that was all I could find,but that is all that I can state here posisitvely that I am personally satisfied were with it. I believe that beyond that number there was many more,but I would not wish to state posisitvely here how many more there was beyond the number I have mentioned,for I do not care about stating anything ~~that I am not personally~~ except that which I am personally acquainted with and know it to be the fact. From my knowledge of the facts I am satisfied that there was many an officer of the original church who came into the reorganized church,and received no office for the reason that they

were aged and infirm,and consequently came into the church,-that is into the reorganized church simply on their original ordination or baptism in the origi -nal church,and retained their simple membership as members of the reorganized church.

I80 Q-I understood you to say that one of the original apostles,-one of the original twelve became a member of the reorganized church? A-Yes sir,

I8I Q-What was his name? A-William Smith.

I82 Q-He was one of the original twelve? A-That is my understanding,and I do not think it is disputed.

I83 Q-There was only one of them came into the reorganized church,and he was that one? A-Yes sir. The only one,-to my knowledge,-so far as I am acquainted with the fact that is all.

I84 Q-I believe you stated that you estimate that at least five thousand,-? A-No sir,-from three thousand to five thousand I should estimate of the ~~members~~ members of the original church have been members of the reorganized church at different times from I852 down to the present time,-or from I853 up to the present time.

I85 Q-Have you an estimate as to the numbers of the reor ganized church now? A-Of its membership?

I86 Q-Yes sir? ~~A~~ First state the numbers of the members of the original church that are now living if you can A-I cannot say sir for fifty years have passed away since the death of Joseph Smith,and a large portion of them have died,-the greater bulk of them have died ,and I cannot now give any estimate as to that number

I87 Q-Now about these records..Mr Stebbins I-would enquire if you have in your possession as recorder and secretary,of the reorganized church,any other record, than the one you have presented here? A-Yes sir.

I88 Q-What is it? A-That is a simple record kept prior to I874 by Mr Sheen.

I89 Q-Now then have you any record of the church older than that? A-No sir.

I90 Q-Have you any knowledge of where there are any older records than that? A-No sir. I do not think that there is any thing older than that record there(exhib it N).

I9I Q-Well you say you "don't think",-that is you mean that is the best of your knowledge? A-Yes sir,-of course I am speaking of my knowledge. I do not know of any.

I92 Q-Now as you have spoken of quoroms I will ask you how many quoroms the reorganized church contains? Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent,irrelevant and immeterial,not the best evidence,and not cross examination.

A-Well I don't know exactly in what sense that question is asked.

I93 Q-Quoroms of seventy I mean? A-There is now only one quorom of seventy in the reorganized church,and never has been but one.

I94 Q-Do you know from the law,as to how many the law of the church provides for? A-I think I do. It provides for seven quoroms of seventy,-that is the law does.

I95 Q-Then that law has never been complied with by the reorganized church? A-I can,-

Counsel fot the plaintiff objects to the question asked the witness on the grounds and for the reasons stated in the objection hereinbefore ~~xxxxxxxxxx~~ set forth,and on the further ground that it calls for an opinion of the witness.

A-The law provides that there may be such a number of quoroms,but the law does not make it compulsory that there shall be such a number.

There is nothing obligatory or compulsory about the law,-the church may have them all or it may not ~~have~~ at its otion.

I96 Q-Do you know from the records of the church,or from authentic church history,how many quoroms there were in the church prior to 1844? A-Counsel for the plaintiff objects to the question on the ground that it is incompetent and immaterial,and not cross examination,nor the best evidence,

A-Quoroms of seventy do you mean?

I97 Q-Yes sir? A-Well that is the same question you asked me before,and I cannot answer it.

I98 Q-You said there was more than one,-possibly as many as five. A-Mx xxr.Yes sir.

I99 Q-Now does not the law provide for a specific number A-Not necessarily,-it provides that there may be a certain number.

200 Q-Oov many? A-Seven quoroms of seventy,but that number is not compulsory. The statement of the law is in words to that effect,-that the number of the seventies may be increased to seven quoroms. It gives the priveloge of having that many quoroms but does not state that there shall be that many as an law binding or obligatory on the church. It states that there may seven quoroms of seventy each,but does not state that that shall be the case.

20I Q-Well is it as you understand it upon that same subject,-really required positively in the law that there shall be any quoroms of seventy? A-We so under-stand it.

202 Q-From where do you get that understanding' A-We so understand it both from the book of doctrine and cov-enants and the history of Jesus Christ and his doing here on earth with the church that there would be a quorom of seventy,as he called other seventies also it says,and sent them forth.

Re-direct examination by Mr Kelley,-

203 Q-In your cross examination Mr Stebbins you were asked if there xxxx was any older record than that? A-Yes sir.

204 Q-Now to what did you refer,-the records of the old church,or the records of the new church,when you said there was not any older record than that? A-Well I suppose he meant,or was talking about the reorganized church. I supposed that was what he meant when he asked about any older record.

205 Q-You thought he referred to the reorganized church? A-Yes sir.

206 Q-And that is what you referred to in your answer? A-Yes sir,I thought he refferd to the plaintiff in this case,and its work and records, *for it is supposed, I counsel, that the old church holds records.*

Re-cross examination by Mr Southern,-

207 Q-Well I want to know now if you have the records of the old church, You have just xxxxxxxxxxxxxxexplai-ned that you did not refer to the records of the old church,and I will ask you now if you have in your possession,or have any knowledge of any like records of the church prior to 1844? A-Not a record of the members in the church,but I have one record of the church that was kept in Kirtland,Ohio,early in the thirties.

208 Q-What is the nature or character of that record? A-It is a record of the first quorom of elders and and its meetings and its members..and that is the only original record I have of the original church.

209 Q-Where is that record? A-In my office vault at Ha-moni,Lowa.

2I0 Q-How many years does it cover? xx If you remember? A-I don't,-that is to say fully,-it does not cover

I remember it now from reading it. I cannot say definitely as to that because it has been years since I looked at it,or into it.

2I1 Q-Have you a record of the conferences that were held prior to I844,-any of them or all of them? A-Nothing except as published in the official papers of the church.

2I2 Q-You have none of the original records? A-I have none of the original minutes,and what became of them I am not prepared to say,but they were published in the church papers as they were written,and what became of the original records I have no means of knowing.

2I3 Q-Is it not simply an assumption or conclusion of yours that those records were published in the church papers? A-What is that?

2I4 Q-I asked you if it was not simply an assumption or conclusion of yours that these original records were published in the church papers? A-Well I could not say it was an assumption of mine,or a conclusion either,for we find them published in the church papers,or what purport to be the records of their proceedings. We find the record in the church papers, and it is stated that it is the record of the proceedings,whit the names of the parties who officiated participated as officers,and it is all printed there and signed with their names as the officers of the meetings.

2I5 Q-Is not this the fact that what you refer to as finding there,is what purports to be the copy of the records? A-Yes sir that is what I mean,and what I said.

.....

Sworn to before me on the day within the hours,and in the place in that behalf aforesaid,and subscribed in my presence this day of I892.

.....

Notary Public.

Robert Weston,of lawful, age being produced,sworn and examined on the part of the plaintiff,testified as follows,-

Direct examination by Mr Kelley,-

I Q-Mr Weston state your full name please? A-Robert Weston.

2 Q-Where do you live Mr Weston? A-At Independence Missouri.

3 Q-How long have you lived at Independence,Missouri.

* A-I can't tell certainly,but I think about sixty two or sixty three years.

4 Q-How old were you when you first came here? A-I was about twelve years old I think. I am not sure about that,but I don't think I was more than twelve years at that time.

5 Q-Then you came here in I828 or I829? A-In '28,-'27, *2e I think it was.

6 Q-And you have lived in this county,and town ever since? A-Ever since we moved to town we have. We lived at Rock Creek out there about a year,and then we came to town,and I think it has been sixty one or sixty two years,-sixty two or sixty three years since we came to town,but I was aboy at the time and I don't remember the dates of these things very well.

7 Q-How far is it from here to Rock Creek? A-I don't know the exact distance but it is two and a half or three miles,-maybe more for I will not say for certain how far it is. I know I came from

17 Q - And you know where it is located? A - Yes sir.

there here to school for quite a while, but I can't tell you the distance exactly.

8 Q-I will ask you if you knew a man in 1832 and from then on up to 1838 by the name of Edward Partridge? A-What?

9 Q-Edward Partridge? A-I believe they called him "Bishop",-I knew a man they called Bishop Partridge. It is the same man I expect but the date that I knew him I don't just remember exactly for I was a boy and boys don't remember or pay much attention to the matter of dates, but I remember that I saw a crowd of fellows that were treating him pretty rough up in the Coutr House Square one time. I remember that very well but I don't remember the time

10 Q-Did you understand he was a bishop? A-Yes sir.

11 Q-Of what church did you understand he was the bisho- A-Wellthe Mormon,-we always called themMormonsthen ,-I suppose it is the same as the Latter Day Saints.

12 Q-Did you know Joseph Smith the President of the old original church? A-I would not know him again, but I know I have seen him, for I was in the crowd where he was. That is the only time and I saw him then, but I don't think I would know him again if I was to see him even if he was living., and I understand he is dead.

13 Q-You saw him you say? A-Yes sir, and of course know he is dead,-at least I have heard he is dead.

14 Q-You did then know Edward Partridge, who is or was sometimes called Bishop Partridge, some where along in the thirties? A-Yes sir, I have seen him.

15 Q-And you knew Joseph Smith about the same time ? A-Yes sir I saw him as I said one time,-I can't say when it was, but it was the time he and Sidney Rigdon and some others of them were here. I knew them when they were here.

16 Q-Do you know this piece of property out here in Independence, Missouri, commonly called the temple property? A-Yes sir.

18 Q-How long have you known it? A-Well I can't tell you exactly but it has been a long time,-a great many years., I expect it was probably in '33,-I think it was in '38 or some where along there I got acquainted with it, and from that on down to the present time I have known it.

19 Q-You have known the temple lot since that time? A-Yes sir I have known it very well since say-'38 or along about that time,-Perhaps it was a little before or a little after that time I first knew it, but at any rate I got acquainted with it about that time and I have known it very well since that time.

20 Q-I will ask you Mr Weston what the people generally call that property in speaking about it? A-Well I never heard it spoken of in any other way than the temple lot. I don't know that I have heard it spoken of much at all, but that is what we always called it, everybody that I knew anything about.

21 Q-Called it what? A-The temple lot,-that is what people always called it that I know anything about.

22 Q-From 1833 up to what time? A-Well for a long time and plenty of people yet call it that. They call it that still although other people claim it now.

23 Q-Well I am not asking you about who claimed it or claims it? A-Well that was the way it was,-It was called the temple lot, but other people claimed it.

Cross examination by Mr Southern.-

24 Q-Mr Weston I did not intend to ask you any questions ,but I have changed my mind and will ask you a question or two? A-All right sir.

25 Can you state distinctly and definitly whether those people of whom you spoke a while ago were called Mormons ,or Latter Day Saints? A-I can't say what their name was for certain.

26 Q-I do not ask you to state what their true appelation was,but simply to state whether they were called"Mormons",or called "Latter Day Saints"? A-Well I know outsiders like myself called them Mormons altogether.

27 Q-Now Mr Weston are you right sure that had ever heard them term"Latter Day Saints",at that time? A-I would not say for certain because I do not know,-I don't remember, I would not say that I had or that I had not.

28 Q-You have heard that term,however? A-How is that?

29 Q-You are sure I say,that you have heard that term,-"Latter Day Saints" used? A-Oh yes sir,often.

30 Q-Have you not heard that more patricularly of recent years? A-Yes sir.

31 Q-And you don't know that you ever heard the term "Latter Day Saints"used during the time that Partridge was here or not? A-No sir. Well now,-

32 Q-And you don't know whether you ever heard the term "Latter Dy Saints"applied to these people whom you have designated as Mormons during the time that Partridge was here or not? A-Well we always called them Mormons,but I can't say posisitively what other names they might have called them,and I don't know whether they called them Latter Day Saints at that time or not,-I know I often heard that way of calling them but I can't say just when it was when I first heard it.

33 Q-You know that they were called Mormons at that -time? A-I know that is what the outside people always called them that,-that is what the outsiders called them,but what they called themselves I don't know.

34 Q-When you refer to other people claiming that property out there,-the property in controversy in this suit,you refer to the property you have indicated here as the temple lot? A-Yes sir.

35 Q-Now whom do you maen as the other people?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is not cross examination.

36 Q-What do you mean by other people claiming it,-whom do you mean claimed it? A-Well the reason I say that is because Sam H.Woodson,John Maxwell and another man that lived down here by the river,they had a law suit about it,and they called on John Parker and old man Seagall,and some other fellows,-I don't know who it was just now,but I was to meet with them and the three of them wanted us to view the property and value it,and we went down there and looked around,and finally we declared what we thought it was worth,and they seemed to be having a law suit about it,or had a law suit about it and had compromised it in some way,for I don't know just how it was,for one took one piece of it and the other took another piece. Now that is my recollection about it for I don't know just what the trouble was about it.,and never did know how it was.

Counsel for the plaintiff objects to the answer of the witness and to the question to which it is an answer on the ground that it is not cross examination,and moves the court to exclude the answer of the witness from the record for that reason.

37 Q-Were they in possession of the property at that time,-one or

Counsel for the plaintiff objects to the question asked the witnesson the ground and for the reason that it is irrelevant and immeterial,not cross examination and calls for an opinion of the witness.

A-It was open ground there and I don't know who had possession of it for xxrx certain.

38 Q-Now when was that? A-That was in,-what do you want to know.

39 Q-When was it that this occurence took place that you have detailed? A-I couldn't tell you when it was,but old Steele lived here at the time. I can't tell you when it was. It was away back xxxxxxxxxxxx a long time before the war any way.

.....

Sworn to before me on the day,within the hours,and at the place in that behalf aforesaid,and subscribed in my presence this day of I892.

.....

Notary Public.

Isaac N Rogers,of lawful age being produced,sworn and examined on the part of the plaintiff ,testified as follows ,-

Direct examination By Mr Kelley,-

I Q-Where do you live Mr Rogers? A-Here in this city.

2 Q-Here in the city of Independence,Missouri? A-Yes sir,out on Pleasant street.

3 Q-How long have you lived here Mr Rogers? A-I have been living Here since I848.

4 Q-In what business are you engaged? A-I have been in the merchantile business for a good part of the time,but I have been in the banking business for the last twenty years.

5 Q-What position do you hold in the bank? A-I am cashier.

6 Q-What bank? A-The Chrisman and Sawyer Banking Company.

7 Q-Do you know the property here in Independence, Missouri.,that is in litigation in this case? A-Yes sir,I think I do.

8 Q-It is the piece of land in litigation or dispute in this case? A-Is it what is known as the"temple lot"?

9 Q-Yes sir? A-Yes sir.

IO Q-You know that? A-Yes sir,I do.

II Q-How long have you know that piece of ground? A-Well I think,it is for some time,-I should say though that it is probably since I853 or '54 that I have known it. That is I have known of it since about that time as the temple lot.

I2 Q-I will ask you what people generally call that lot when speaking of it? A-They call it the temple lot.

I3 Q-I will ask you if that is the name or title people generall ybestowed on that lot in speaking of it since the time you first knew it in I853? A-Yes sir that is what I have always heard it called.

By Mr Southern,-"We have no questions to ask".

.....

Sworn to before me on the day,within the hours,and at the placein that behalf x first aforesaid,

and subscribed in my presence this day of I892.

.....

Notary Public.

William McCoy,of lawful age,being produced,sworn and examined on the part of the plaintiff,testified as follows,-

Direct examination by Mr Kelley,-

I Q-Please state you name to the reporter? A-William McCoy is my name.

2 Q-Where do you live Mr McCoy? A-In Independence.

3 Q-In independence,Missouri,-here in this city? A-Yes sir.

4 Q-How long have you lived here in Independence,Missouri? A-For fifteen years and over.

5 Q-What is your business? A-I am engaged in the banking business now. I have been at different times engaged in various businesses,but at the present time I am engaged in the banking bussiness.

6 Q-Are you the president of the McCoy Banking Company A-I am.

7 Q-I will ask you if at any time during the early period of your residence here,you were acquainted with a party known by the name of Edward Partridge? A-I was not personally acquainted with him but I knew of him.

8 Q-I will ask you if you are acquainted with the property in controversy in this case,known as the temple lot or property? A-Yes sir I am acquainted with it.

9 Q-You know where it is located? A-Yes sir.

I0 Q-How long have you been acquainted with it? A-Well ever since my residence here. I have known it all the time I have resided here.

IIX Q-I will ask you what the peole generally call that property in speaking of it? A-Well it was known by that name,-

I2 Q-What name? A-It was known by the name of the "temple ground" or the "temple property",or "temple lot",or"the old temple lot",for it was variously called by these varying names by different people at different times,but it has always been distinguished as a part,or as the temple property in some way or other,-at least ever since I have been here.

I3 Q-That is the name by which it has been known for fifty years,-the name by which it had gone during that period of time? A-Well it was known then by that name,but it has changed around there a great deal since that time for at that time there were no houses out around there. It was at that time just an open piece of ground, and was for some time afterwards,regarded as a very handome piece of property or site,and it was called the temple lot,and has been ever since so far as my knowledge goes.

I4 Q-How much of the time Mr McCoy has the property been vacant? A-How much of all that interval?

I5 Q-Yes sir? A-Oh I couldn't tell you. It was for some years just lying out there a vacant piece of ground. I couldn't tell you how many years,anyway,it was there vacant without any improvements on it,and then Woodson and Maxwell had or made some claim to it,and were in possession or claimed to be and there was a suit over it in some way,and it was continued through several years.

(but quite a number of years)

I6 Q-What time was that? A-I can't say what time that was but it

was a good many years ago,-at any rate I think at that time it had been enclosed with a fence by some one,-I think probably they did it.

I7 Q-Did Woodson and Maxwell put any imptovements on this piece of ground?,or the part of it that was enclosed by this fence? A-I don't know that they put any improvements on it,but there was lots sold in Woodsons' and Maxwell's addition,and I presume that was a part of what was known as the temple ground,or rather known as the temple lot.

I8 Q-I will ask you if the present fence around the temple lot is not the first fence that was ever put around it that you recollect anything of? A-I could not say.

I9 Q-Well what is your best recollection as to that? A-I could not answer that with posisitve certainty., That is something I could not answer with absolute certainty but it seems to me that there was a fence around it before,but as to that I cannot say positively. That piece there is now occupied,-that is the first fence that was put around it I am pretty sure.

20 Q-Well that is what I am asking you about,-that is the only part of the lot that is in controversy in this suit. Is that piece of the property that is now enclosed by the fence,is that the first fence that was ever put around that piece of the property? a-I don't know that with absolute certainty,-that is I cannot speak with positive knowledge,but I think that is the first fence that was put around it.

2I Q-That is the first fence you say,-according to the best of your recollection? A-Yes sir,but there may have been other fences around it before that,.I would not say positively there was not,it may have been enclosed before this time,for I am not at all certain that it was not enclosed,but it may have been enclos-ed some way with an ordinary rail fence at one time, but I cannot say as I paid no particular attention to it. Of course I could not remember all these things through all these years,for as I said at that time there were no houses down that way,and since then the city has grown up,and all the various exten-sions of the town have been made in different direc-tions,but mainly in that direction for the Missouri Pacific depot is down there and as that was the first railroad in the city it had a great deal to do with attracting the growth of the city in that direc-tion. Streets were opened and the whole thing changed ,and I never thought enough about it to keep my mind fixed on it or pay special attention to it. Now I remember very well the old temple ground,but it was supposed to embody a much larger portion of ground than there is there now under fence.

2 2 Q-Well what is in litigation here now Mr McCoy is just the lots there that are under fence,-that is all And that is all that I am asking you about,for it is all that is in litigation? A-Well my ~~relation~~ collection is not sufficiently distinct to state posisitvely that it has never been fenced up before,but I do know that for many years previous to the time that it was fenced with the fence that is around it now,it had been lying open unfenced.

Cross examination by Mr Southern,-

23 Q-This piece of ground borders on the north-west does it not,on what is known as the old "Westport Road"? A-Yes sir,on the north-west it does.

north west it was does.
24 Q-It does? A-Yes sir.
25 Q-And can you not call to mind that travelling along that road which was known as the"old Westport road" can you not remember that way back before the war that piece of ground that you have been testifying about here,was in a field fenced,and that it was under cultivation? A-Prior to the war?
26 Q-Yes sir,-and growing pumpkins,potatoes and corn,-that piece of ground,including this temple lot or ground as you call it in litigation here,was all under fence in a field and in cultivation. Do you not remember that? A-At the beginning of the war a man that went by the name of "Doc"Irvine,-I forget what his initials were,-everybody at that ime knew the man,but I don't remember what his name was now,
27 Q-Doc who? A-"Doc" Irvine was the name he went by. He was not a physician,-it was just an appelation or name given him by the people,-what you might call a nick name.
28 Q-Well what were you going to say about him? A-He lived right about opposite that ground some where, and he had that ground that afterwards Major Vernon sold,-well he had quite a tract of ground here and it finally passed through several hands,and I very well know by special associations,-or by a certain event that he was living there at the opening period of the war in the spring of 1861,and he had ground cultivated there at that time,and possibly that lot might have been in an enclosure there on the oppositie side of the road,for the Westport road run right straight alongthere beside there where that fence is now.
29 Q-Very much where it is now? A-Yes sir.
30 Q-It is about or was about in the same place where it is now? A-Yes sir,about in the same place where it is now,or very near the same place it now is. There was a long period of years that there was no fence there at all,-in fact I do not remember its being fenced until this present fence was put there, but as I said before it may have been fenced before that time. When I first came here there was a great deal of talk about this temple lot,-everybody most was talking about it,for it was a:beautiful piece of ground,and it was beautifully located,-the situation was beautiful,and the temple lot was much spoken of; and I remember that finally there was a man hung upon it,and that gave it a great deal of notriety. The man that was hung there was a man by the name of Gasser,and it was the only execution that had ever taken place in the county ,and that event brought in about all of the population of the county adjoining it,but after that it still remained there as it was,-still known as the temple ground. I never knew the exact locality of where the temple was to be built but rumor had it that there was a temple to at some time to be built on it,and it was a beautiful situation for anything of that kind.
31 Q-That was a part of Woodson's and Maxwell's addition
Counsel for the plaintiff objects to the question asked the witness for the reason that it does not call for the best evidence and is not cross examination.
A-I do not know exactly that Woodsons and Maxwells addition embodied or covered that precise location or site,-that is the special prominence in the site that is in controversy here as I understand it,but I rather think it did not.
32 Q-You do not know that it did or that it did not?
A-Yes sir that would be my answer to that question for I do not know.
Redirect examination by Mr Keeley,-
33 Q-Now at the time you say there was a man hung on

that property was there a fence around it? A-No sir
34 Q-Do you have any distant recollection of ~~there~~ having been a fence around this distinct piece of property,-this particular piece of property that this fence is now around,until the time that this fence was put around it that now surrounds it? A-No sir I answered that before and I said I did not know absolutely. Now I might be mistaken in one thing,-I said there was a man hung on that property. I do not know that he was hung on the temple lot,-I rather think upon reflection that he was not hung there. I think now it was down further towards town,but I remember that it was a general open place there,and was called the temple lot.

.....

Sworn to before me on the day,within the hours,and at the place in that behalf first aforesaid,and subscribed in my presence this day of I892

.....

Notary Public.

Thomas Halley of lawful age being produced,sworn and examined on the part of the ~~xxxxxxxxx~~ complainants, testified as follows,-

Direct examination by Mr Kelley,-

I Q-Where do you live Mr Halley? A-Here in Independence I lived up here in this Mrs Morgan Block for five years,and down where I live now for five years,and that will make ten years.

2 Q- You have lived here ten years? A-Yes sir.

3 Q-Are these places where you have lived within the corporate limits of the City of Independence? A-Yes sir,and I came here ten years ago this spring.

4 Q-Do you know the piece of property called the temple lot that is in controversy in this case? A-Yes sir.

5 Q-How long have you known it? A-I have known it ever since I have been down here.

6 Q-And you knew it ten years ago? A-Yes sir.

7 Q-Was it fenced at the time you came here? A-It was not fenced until the summer of I883,-I told Mr Kelley it was fenced in I884 but I was mistaken in that,for it was fenced the year after I came here which was ~~xxxxxxxx

II Q-If there had been any improvements you would have seen it? A-Yes sir.

Cross examination by Mr Sou thern,-

I2 Q-Are you a member of the Reorganized church of Jesus Christ of Latter Day Saints? A-I have been a member of the church ever sine I846,-that is I was a member of the old church at first, and I have been a member of the reorganized church about seventeen years, as near as I can get at it. I could tell you just how long I have been a member of the reorganized church if I had known you wanted it.

.....

Sworn to before me on the day, within the hours, and at the place in that behalf aforesaid, and subscribed in my presence this gay of I892..

5 Q-How long have you known it?
A-Ever since I came here.

.....
Notary Public.

Dr Clarence StClair, of lawful age, being produced, sworn and examined on the part of the complainants, testified as follows,-

Direct examination by Mr Kelley,-

I Q-Where do you live Mr St Clair? A-Here in the city
2 Q-That is here in the city of Independence, Missouri A-Yes sir.
3 Q-How long have you lived here? A-It will be ten years this spring. It will be ten years the 27th of March since I came here, for I came here in I882.
4 Q-Do you know the property in controversy in this case? A-I do.
6- Q-Do you know when the fence was built around it? First I will ask you this question,-were there any improvements on it when you came here first? A-No sir,-none at all.
7 Q-State when the first improvements were put on that property? A-In I883 they commenced digging post holes and fencing it, and I was down there several times when they were doing it.
8 Q-That is when they were fencing it, you were down there? A-Yes sir, several times.
9 Q-When did they finally finish the fence? A-Well it has been repaired several times,-I don't know what you call finishing it,-but the fence was around it that fall, for I know I was next up on the lot in September and about the I5th. I was on the temple lot, and I went there to hunt the place where they supposed there was a stone sunk, but I couldn't find it, and at that time the fence was built around it, so far as I know.
I0 Q-When were the next improvements made on the property? A-I don't remember when that little church was bilt there, but it was some time since,-something like three years ago that was built I should say. I don't just remember the date of that however, but I know when I first came here there was no fence around it, and there was a circus there and I went to the circus, and that is how I remember so distinctly that it was not fenced at that time.
II Q-When were the trees planted there, if you recollect A-I think it was in the fall of the same year, I think some trees were put on it in September,-it might have been later than that, but it was the same fall that the fence was put around it,-that is in the fall of the year that

planted there. The fence was pu t around it in the spring I think,and the trees were put there in the fall.

I2 Q-That was in the fall of I883? A-Yes sir. I don't remember so much about the trees,as I do about their putting the fence there and digging the post holes.

Cross examination by Mr Southern,-

I3 Q-What year did you come here? A-Il I883.

I4 Q-Did you ever see the ground prior to that time? A-No sir.

I5 Q-When did you say there was not a fence around it? A-I don't know. I know there was not a fence around it ~~when I first~~ at the time I first came here,-that I know.

I6 Q-You do not pretend to say it had never been fenced prior to that time? A-No sir,I do not say-that it had never been fenced,before that,but I do say that it had the appearance of never having been fenced at the time I first saw it.

I7 Q-Under whose charge was the fence being built at the time you first saw it being built? A-Well Daniel Bauder was up there,and he seemed to be in charge of it. I know he cut the hay off it that season and the next season too for that matter. I guess he has had the hay off it every season since for that matter.

I8 Q-What seasons were these? A-That was in I883 and I884 that he was cutting the hay off it that I know of.

I9 Q-How could there be hay on it if it was outside unfenced property in I883,-how could he cut the hay off it if that was the case in I883? A-They put the fence around it in the spring of I883,and of course the hay or grass grew on it that year,for the fence was around there early enough in the season for that

20 Q-Was there plenty of time to sow the grass that season and have hay from it? A-No sir,they did not have to do that,for at the time it was fenced it was sodded.

2I Q-Is that what the hay grew from? A-Yes sir.

22 Q-What sort of sod was it? A-I don't know,but I suppose it was blue grass,-most of it.

23 Q-Was there any timothy hay there? A-Yes sir there was timothy there,and probably some blue grass,and some red top,and probably some clover. I don't know what was there,but it is likely that these grasses were there.

24 Q-Were those voluntary grasses,-that is grasses that grow spontaneously from the soil? A-No sir,-not all of them.

25 Q-Were they not sown there prior to that time? A-I can't say,-they were like the balance of the grass that grows around the city.

26 Q-Do you find timothy grass sod around out City? A-Yes sir.

27 Q-And clover? A-We do.

28 Q-We do? A-Yes sir.

29 Q-Where it is not under fence? A-Yes sir. We find them mixed,-all kind of grasses and we call them tame grasses too. The seed gets scattered around, we don't know how,but it does some way or other,and they grow,and we find them all around.

30 Q-Do you say that the hay that was there did not grow from seed that had been sown on that lot? A-I don't know hether it had ever been sown on there or not. I wouldn't certify to that.

.....

Sworn to on the day,within the hours,and at the place in that behalf

first aforesaid,and subscribed in my presence this day of I892.

.....

Notary Public.

By agreement of the parties hereto as aforesaid,the further taking of depoditions in the above entitled cause was continued until Monday the fouteenth day of March I892 at the hour of IO o'clock in the morning,when depositions of sundry witnesses on behalf of the complainant shall be taken in Salt Lake City,in the territory of Utah in a place to be agreed upon when the parties hereto shall meet in Salt Lake City on the day aforesaid,-formanl notice of the taking of said depositions in Salt Lake City,being expressly waived.

Now in pursuance of the agreement and stipulation above set forth come the patries hereto as hereinafter specified ,before the undersigned a Spesial Examiner duly appointed and qualified by the court in which this cause is pending,in the City of Salt Lake City,in the territory of Utah on the I4th day of March I892,the same being on Monday,at the hour of two o'clock in the afternoon of said day,at room Number 69 in the Cooper Building in said City,the complainant being represented by P.P. Kelley and E.L. Kelley,and the defendants being represented by Richard H. Cabell as attorney and C.A. Hall as agent for defendants,and the taking of depositions of witnesses on behalf of the complainant was proceeded wit n in accordance with the terms of the stipulation and agreemtne above set forth(the taking of said depositions having been continued from the hour of ten o'clock A.M. until 2 o'clock P.M. of said date,by consent and agreement of the parties hereto).

Emily D.P. Young of lawful age,being produced,sworn and examined on the part of the complainant,testified as follows,-

Direct examination by Mr P.P. Kelley,-

I Q-You are now living in the city of Salt Lake,are you not Mrs Young? A-Yes sir.

2 Q-Are you a daughter of Edward Partridge,who was formerally a bishop in the original church of Jesus Christ of Latter Day Saints? A-I am.

3 Q-When did he die? A-Well I could not state the exact date when he died.

4 Q-Well state it as nearly as y u can Mrs Young? A-I think it was in '4I,but I am not sure that was the date. I have it down on the record and if I had access to the record now I could tell you but without that I cannot tell you the exact date.

5 Q-Are you one of the daughters of Edward Partridge, who together with your mother,and perhaps two other sisters,signed a deed to certain property in the City of Independence,Missouri,,commonly known as the temple property? A-Yes sir,I signed a deed,and I believe it was for that,for I always have it in mind that that was what it was for,but I haven't charged my mind with it particularly. I know I signed a deed for some property there,and I think it was for this temple lot.

6 Q-What is the fact Mrs Young about you signing more whan one deed? A-I never signed but one deed that I have any recollection of for land in Missouri.

7 Q-How many of your brothers and sisters did not sign that particular deed? A-There was one brother and one sister.

8 Q-That did not sign that deed to which you have reference? A-Yes sir,there was one brother and one sister.

9 Q-Is your sister now living that did not sign it,-that is the sister that did not sign that deed to which you refer,-is she now living? A-No sir,she is dead.

10 Q-I will ask you now Mrs Young whether that property was in fact the property of Edward Partridge,your father,or was it property held at that time by your father Edward Partridge,in trust for the use and ben-efit of the church of which he,at that time,was a member? A-Well I can't say for I have no positive knowledge,but I know I always had the idea that he was holding it for the church. That was always the idea I had,but as I said,have no positive knowledge.

11 Q-What was said at the time the deed to which you refer was madewith reference to advising the purchaser?,or the party to whom the deed was mad e of the character of the property? A-Well I always understood,or had always supposed that he understood it,but I do not remember all these things,for it was a long time ago and I didn't charge my mind with all these things,and I have forgottena good deal a bout it of course,-but I remember knowing it of course.

12 Q-Remember knowing what Mrs Young? A-Of course I remember signing the deed.

13 Q-Was anything said about your interst in it,or about your not having any interest in it,or about its being church property?
A-I can't say. I don't remember anything of the kind

14 Q-Do you recollect who was present at the time the deed was executed? A-Well my two sistera,-While we would sign it do you mean?

15 Q-Yes ma'am,-when you signed the deed,do you recollect who was present? A-Well my mother and two sisters were present,but I cannot be positive about anybody else,because they were strangers you know,and I can't remember their names. We went out into town and sign-ed it,and I don't remember just all who were present

16 Q-Was you brother Edward present at the time? A-No sir,my brother Edward was not present.

17 Q-Do you recollect where you lived at the time the deal for the property was made? A-I was living at winter quarters then.

18 Q-Was that at Council Bluffs? A-Well it-was where Omaha is now,-Florence it was called,or some where there.It was winter quarters where we were then any how.

19 Q-Well was that not where Omaha is now? A-I

20 don't know I think it was some where there.
Q-It was on the west side of the river any way, wasn't it? A-Yes sir it was on the west side of the river.

21 Q-I will ask you if the party to whom the property was sold or deeded by yourself and your mother and two sisters came to you where you were in winter quarters in what is now Nebraska,and made the deed for the property there? A-Well I don't know whether the man it was deeded to was there or not,but the agent came there and transacted the business,-or I mean that the man that the business was done with came there and transacted the business,but I don't think the man who really bought it was there,-only the agent was there I think.

22 Q-Then after the deal for the property was made there,you went to some town in Missouri, and executed the deed there? A-Yes sir I think it was in Missouri at a town called Weston I think,if I remember right,

23 Q-Now I will ask you Mrs Young,if you,or either of your brothers or sisters,or your mother at any time when she was living,made any claim to that property as:being- your own private property? A-No sir,we never have,-

Counsel for the ~~plaintiff~~ defendant objects to the question asked the witness on the ground and for the reason that it is hearsay.

24 Q-I will ask you whether or not either of the parties who signed the deed to the property made any claim at that time to the party to whom it was conveyed,or to any agent of his transacting the business for him to the effect that the property was your own individ-ual property? A-Well as I say I don't remember,but I don't think we ever laid any claim to that property as being ours,for we never felt that way,or thought that it was ours. We never I don't think thought the property was ours at all,or felt that it belonged to us.

25 Q-I will ask you Mrs Young if you recollect a statement made by the party purchasing it,or his agent to you,your sisters and mother at the time of the purchase in effect,substantially as follows,- that he would run his chances on the title to the property if he got the deed",-a statement in substance to that effect? A-I don't remember anything of the kind,but I always understood or supposed ,he understood it thoroughly.

26 Q-Understood what thoroughly? A-Understood perfectly the state of things.

27 Q-I will ask you if you executed the deed with the understanding thatthe property was not your individual property,but was property that was held by your father,for the use and benefit of the church? A-Yes sir that was the idea.

28 Q-And did you understand at the time of the execution of the conveyance,that the party to whom it was being conveyed,understood the character and nature of the property that was being conveyed to him? A-Yes sir.

Counsel for the ~~plaintiff~~ defendants objects to the question asked the witness for the reason and on the ground that the deed conveying the property is the best evidence of the fact.

Cross examination by Mr Cabell,-

29 Q-Mrs Young did you personally have any conversation with the man that purchased this property? A-I don't recollect that I saw him at all. Do you mean the agent

30 Q-I mean the man to whom the property was conveyed? A-I don't remember anything about him.

31 Q-You don't remember having any conversation with the man to whom the property was conveyed? A-I don't remember anything about him. He is gone from my mind entirely,but I remember the agent being there.

32 Q-That is the agent of the man who purchased the property? A-Yes sir.I mean the man that was there and done the business,but I don't remember of saying anything to him that I recollect of.

33 Q-Did you have any conversation with that agent? A-I don't know I don't remember that I did"but I remember his being there. It has been a good while ago since these things happened,and I did not charge my mind with these things,for I didn't suppose it would ever come up again. I just signed the deed,-and I did not have any thing more-to to do with it.

34 Q-Beyond that you do not know anything at all about the transaction? A-No sir.

35 Q-That is all you know about it? A-Yes sit,I think I have told you all I can remember about it, as I have said once or twice it was a long time ago,and I did not charge my memory with it,for after I signed the deed I did not think I would ever hear anything more about it,-that would be the last of it,and so I paid not any more attention to it,and I think I have told all I can think of about it.

36 Q-As a matter of fact you cannot recollect anything about it with the exception that you were called on to sign this deed,-that is all you can remember about it with any degree of certainty? A-Yes sir,I remember that I was called on to sign this deed,and I remember doing it.

37 Q-You don't remeber anything about how the property was conveyed,or what the deed contained? A,-Well I suppose the deed was read to me at the time,but I don't remember anything now about what kind of a deed it was,but I suppose it was a quit-claim deed or somtehing of the kind.

38 Q-You don't now remember what the date of the deed was? A-No sir.

39 Q-You do not really remember anything about the transaction do you? A-No sir I don't remember anything about it. I don't think of anything now about it only that the deed was made,and I signed it.

40 Q-Mrs Young have you any positive knowledge that the property conveyed in that deed was church property? A-No sir,-I have no positive knowledge about that as I said before,but I always supposed it was. I know we always considerd that the property was chutch property,and we made no claim to it as being our property.for we supposed all the time it was church property.

4I Q-What was your age Mrs Young when the property was purshased,-that it how-old were you when the property was purchased? A-When it was deeded away?

42 Q-Yes? A-It was in '48 wasn't it that it was deeded away to that man? Well I was born in '24,and you can reckon it up for yourself and find out how old I was. I was twenty two I guess,ortwenty four,-something like that.

43 Q-How old were you at the time you lived in Missouri, when that property was purchased by your father? A-When,what.

44 Q-How old were you when you lived in Missouri when that property was purchased by your father? A-Well I don't know. That is hard for me to say. When I first went to Missouri I was only about seven years old,and I guess the property was purchased about that time. I don't know anything about the purchase of it though,for I was too young at the time to pay much attention to things like that.

Re-direct examination by Mr Kelley,-

45 Q-I will ask you if you recollect the first time you went to Missouri,Mrs Young? A-Yes sir,I can remember very well when we went there.

46 Q-The year I mean? Can you remember the year you first went to Missouri? A-No. Well let me see,-I thik it was in '30,but I ain,t sure about that. I think it was in '3I that we went there,but my father went there the year before,-in '30,I think,but I wouldn't be sure about that either.

47 Q-Now where did you live there in Independence with reference to

48 Q-Yes ma'am? A-Well I couldn't say as to that,but I have an idea that we had a little house built right on the xxxxxx corner of it.

49- On the corner of what? A,Of the lot there. I couldn't say for sure though,but I have an idea that that is where out little house was built,and it was right on a corner of the lot there.

50 Q-The temple lot? A-Yes sir.

51 Q-I will ask you if it is not a fact Mrs Young that your brother Edward Partridge was not born on that property? A-Well now I could not say for sure xx that he was. I couldn't say whether he was born in Jackson county,or after we left there. Well now I remember he was born there,but I couldn't say for sure that he was born on that lot we lived on at that time.

52 Q-Well now was this lot known as the temple lot when you xxxxxxxxx lived there? A-Well I was too small to remember (know) much about it you know,but I have my impression that it was known as the temple lot at that time,but I can't say positively as to that.

53 Q-Well what is your best recollection as to what the lot was called at the time you were living there. Parties speaking of it what would they call it? A-Well they called it the temple lot I suppose.

By Mr Cabell,-"We xx object to that question and the answer of the witness for the reason that the-witness has stated she did not xxxxxxxx know or remember what it was called.

A-I don't for sure,or positively what it was called, but that is the impression I have now that it was called the temple lot. I can't remember though positively how that was for it was so long ago,and I was so small at the time.

By Mr Kelley,-But your best recollection now is that it was called that,-that is it was called the temple lot? A-Yes sir.

By Mr Cabell,-"We object to that question for the reason that it is leading."

By Mr Kelley,-

55 Q-Well what is your best recollection Mrs Young as to what it was called? A-Well the temple lot,I always thought it was called.

Re-cross examination by Mr Cabell,-

56 Q-Mrs Young I understand that what you know about what that lot was called at that time is merely an impression? A-Yes sir,it is an impression for I don't know positively.

57 Q-You have no distinct recollection as to what it was called? A-No sir,-I can't remember anything positively. It was so x long ago that I can't remember what it was xxxxxxxxx called positively. I have xforgotten what it was called and I cannot state positively.

58 Q-How old do you say you were at that time? A-WellI was I think about seven years old when we went there, and when I came away I was I think in my tenth year, and it was between three years of course that I was there,and I was too young to remember much about it distinctly.

The fees of the foregoing witness,Emily D.P. Young were paid xxxxxxxxx by the plaintiff in my presence,-$1,25.

By agreement of the parties hereto entered into in my presence,it was agreed and stipulated that the signatures of witness to depositions taken in Salt Lake City,in the territory of Utah shall be and the same is hereby waived, and the depositions of witnesses so taken shall have the same force and effect as if the same were duly signed by the witnesses, and the terms of any agreement or stipulation on file in this case regarding the manner in which depositions of witnesses are

to be taken in this cause at variance with the foregoing agreement,is waived,and no-objection shall be taken by either party hereto upon the trial of this cause,ar at any-other time,to the fact that the depositions so taken are certified without the signature of the witnesses,- the certificate of the examiner to the fact that the transcript of the evidence of said witnesses is a true and correct transcript of the evidence of said witnesses shall be deemed sufficient,and of the same force and effect as if the depositions had been regularly subscribed as prescribed by law.(The object and intent of the foregoing stipulation as stated. ~~stipulation had been signed~~ in the presence of the examiner being to save time and expidite the taking of the depositions to be hereafter taken in Salt Lake City,Utah).

John H.Carter,Senior,of lawful age,being produced,sworn and examined on the part of the plaintiff,deposeth and sayeth,-

Direct examination by Mr .P.P.Kelley,-

I Q-Where do you live Mr Carter? A-I live in Utah county,about three miles this side of Provo City,or what is called "Provo Bench.

2 Q-That is in Utah territory? A-Yes sir.

3 Q-How long have you lived here? A-Here in the territory?

4 Q-Yes sir? A-I came here in October,-the third day

5 of October in '50.

Where had you lived prior to that time? A-Prior to that time as the Irishman said, I lived all over.

6 Q-Well state where did you live prior to the time you came to Utah territory? A-Well I lived at Kirtland almost two years,and went from Kirtland to Far West in '38,and I got there the third day of October and the 15th day of January I took my back tracks and went back and went down within twenty five miles of the Mississippi river,and stayed there about a year,and then I went over into Hancock county and stayed there awhile,and just before the bust up I went to Nauvoo and lived in Nauvoo until the spring of '46,when I left Nauvoo and went to winter quarters at a place called Carterville,and stayed there about a year,and then I moved from there to Kainesville,and stayed there until July 1850,and from there I came through to- the valley.

7 Q-That is you came to the Salt Lake Valley here in Utah? A-Yes sir,after I left there I did in '50.

8 Q-Now the town you mention as Far West,was in the the state of Missouri,was it not? A-Yes sir.

9 Q-And the County you mention as Hancock County is in the state of Illinois is it not? A-Yes sir. Far West was in Caldwell county in the state of Missouri, and Hancock county is in the state of Illinois.

10 Q-Carterville and Kainesville were small places in Pottowatomie County in tge state of Iowa,were they not? A-Yes sir. They are about two and a half miles a part. Me and my brother stayed in a place called Carterville,and it went by that name ever since,and Kainesville is a little this side of it.

11 Q-Kainesville is the place that is now known as Council Bluffs? A-Well I don't know what it is called.

Counsel for the defendants objects to the question asked the witness on the ground that the same is leading.

12 Q-Well I will withdraw that question? A-I don't know what it is called,but it was called Kainesville when I lived there.

13 B-What was your brothers name that lived at Carterville? A-There was Dominicus Carter William Carter, two brothers older than me lived there.

to be taken in this cause at variance with the foregoing agreement,is waived,and no-objection shall be taken by either party hereto upon the trial of this cause,ar at any-other time,to the fact that the depositions so taken are certified without the signature of the witnesses,- the certificate of the examiner to the fact that the transcript of the evidence of said witnesses is a true and correct transcript of the evidence of said witnesses shall be deemed sufficient,and of the same force and effect as if the depositions had been regularly subscribed as prescribed by law.(The object and intent of the foregoing stipulation as stated. ~~stipulation~~ in the presence of the examiner being to save time and expidite the taking of the depositions to be hereafter taken in Salt Lake City,Utah).

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10 Q-Carterville and Kainesville were small places in Pottowatomie County in tge state of Iowa,were they not? A-Yes sir. They are about two and a half miles a part. Me and my brother stayed in a place called Carterville,and it went by that name ever since,and Kainesville is a little this side of it.

II Q-Kainesville is the place that is now known as Council Bluffs? A-Well I don't know what it is called.

Counsel for the defendants objects to the question asked the witness on the ground that the same is leading.

I2 Q-Well I will withdraw that question? A-I don't know what it is called,but it was called Kainesville when I lived there.

I3 B-What was your brothers name that lived at Carterville? A-There was Dominicus Carter William Carter, two brothers older than me lived there.

I4 Q-Were you a member of the original church of Jesus Christ of Latter Day Saints? A-Yes sir.

I5 Q-When were you baptized as a member of the original church? A-I was: baptized on the 4th day of July '34

I6 Q-By whom were you baptized,and where? A-I was baptized by an elder by the name of Bean,-Daniel Bean,in the county of Oxford,in the state of Maine,in the town of Newry.

I7 Q-What office did you hold in the original church,if any? A-Well I have to home an elders license,and a high priests license,and I belonged to the high coun-cil and was ordained an elder in Hancock county, Illinois,I believe it was in '4I,and they put me in the high council,and I was ordained an high priest.

I8 Q-I will ask you if you are acquainted with the doc-trines,teachings and tenets of the original church of Jesus Christ of Latter Day Saints,and if you were so acquainted with them in I84I? A-Yes sir.

I9 Q-Were you acquainted with the doctrines,teachings and tenets of the church from the time you were baptized in I834 up to I84I? A-Yes sir.

20 Q-I will ask you if you were acquainted with the doctrines,teachings and tenets of that church from I84I up to the year I844? A-Yes sir.

2I Q-Were you ever a member of the church,-I will ask you first whether or not you came west as a member of the congregation,or church faction that was led by Brigham Young? A-Well I have,-I was in the church at the time that Joseph Smith was killed,and I was there when Brigham Young took the lead,and I was in the meeting when he was nominated and voted in,and so on up to his death.

22 Q-That is up to the time of the death of Brigham Young? A-Yes sir,and as I said I was in the church at the time that Joseph Smith was killed.

23 Q-I will ask you Mr Carter if you were acquainted with the doctrines,tenets and principles of the church under Brigham Young from I846,up to the time of his death? A-Yes sir. I have lived here in Utah all the time,-I lived in Provo most of the time,and I have heard him preach very often.

24 Q-I will ask you now Mr Carter,whether or not the principles,and doctrines of the church,and tenets and teachings of the church under Brigham Young from I846 up to the time of his death,were the same as the doctrines,teachings and tenets of the original church from I834 up to I844 under Joseph Smith?

Counsel for the defendants objects to the question asked the witness on the ground that it does not call for the best evidence of the fact sought to be proven.

A-Well there was some of the doctrines that Brigham Young taught were the same as the doctrines and teach-ings of the original church,and some of the doctrines that Brigham taught,I never heard taught by Joseph Smith. There were some of the doctrines that were taught by Brigham Young that were the same you know as the doctrines taught by Joseph Smith in the origi-nal church,and there are some other doctrines and teachings taught by Brigham,~~xxxxx~~ or advanced by him,and taught and practiced,that I never heard taught by Joseph Smith,and I never knowed him to-practice it neither.

25 Q-I will ask you Mr Carter if these doctrines you refer to as being taught by Brigham Young,were taug-

ht in the original church prior to I844 to your know-ledge? A-If a man had taught it he would have been dis-fellowshipped from the church very quick. That is up to I844 at the time that Joseph Smith was killed. The

polygamy doctrine was never taught in the early days up to 1843. I lived most two years ~~xx xxx xxx xxxxx~~ with Joseph Smith in the one place, and I have heard him preach, and the rest of the elders, Hyrum Smith Oliver Cowdery and the rest of them, and I never heard the doctrine of polygamy taught by any of them,-never in the world did I hear it taught.

By Mr Cabell,-"The answer of the witness is objected to on the ground that it is not responsive to the question,-nothing having been asked the witness in reference to the question of polygamy".

By Mr Kelley,-

26 Q-I will ask you if at any time during your residence in the city of Nauvoo in the state of Illinois, you were present at a meeting at which something was said or done about the successor to Joseph Smith,-known then as Joseph Smoth, Junior? A-Yes sir I was at a meeting held in the Bowery, right north of the temple,

27 and Joseph Smith came on the stand,- B-Well wait,-don't state what he said-for I haven't asked you what he said? Now when was that? A-Well sir I couldn't tell you exactly, but it was not long before he was killed.

28 Q-Where was that? A-Where Joseph said that?

29 Q-Yes sir, where this occurence happened that you speak of? A-It was in Nauvoo in a Bowery that was erected right ~~in front~~ north of the temple, where they held meetings before the temple was finished.

30 Q-Well now you say that Joseph Smith that was called Junior came on the stand? A-Yes sir.

31 Q-State what day of the week that was? A-It was on a Sunday.

32 Q-Was there a congregation gathered there on that occassion? A-Yes sir.

33 Q-What is the fact about there being a large concourse of people gathered there, or were they few in number? A-Well it was a large gathering. It was the people mostly from Nauvoo that had gathered there, and when they got togeher on these occasions there was a large gathering.

34 Q-Well what was the occasion of the gathering? A-Well it was for the services on Sunday,-the services that were held on Sunday.

35 B-The Sunday preaching services? A-Yes sir. Sunday Preakcing and Joseph Smith occupied the time in the forenoon.

36 Q-And who spoke in the afternoon? A-I don't recollect just who did speak in the afternoon.

37 Q-Now you say that Joseph Smith spoke in the ~~afternoon~~ forenoon? A-Yes sir-he occupied the time in the forenoon.

38 Q-Did he speak from the platform? A-Yes sir.

39 Q-Do you recollect what other officers of the church were on the platform with him at the time he spoke? A-In the forenoon?

40 Q-Yes sir? A-Well I think Sidney Rigdon was there, and I think Hyrum Smith was there, and I don't know but William Smith was there also. There was quite a large number of the authorities there,-of the twelve, -and I guess Parley Pratt was there too.

41 Q-I will ask you now what was said at that time, if anything, by Joseph Smith, Junior, as he was known then, or by Sidney Rigdon or by Hyrum Smith, or any other member of the quorom of twele, about the successor to Joseph Smith, Junior? A-Well sir I don't think there was anything said about the successorship there at that time, Joseph came on to the stand leading young Joseph, and they set him down on a bench at the prophets right hand, and Joseph got up and began to preach and talk to the people, and he talked a while, and I think he said,-the question was asked if Joseph would

die or be killed,who would be his succe ssor,and he turned around and said"him",pointing to his son"there is your prophet",said he,and he went on and said"my work is pretty near done",and that is about all he said in regard to his son.

42 Q-What did he say? A-Said he"there is your prophet, my work is pretty near done",and he said that in answer to a question that was asked as to who should be his successor in case Joseph was killed or died, and he pointed to his son,young Joseph,who was sitti -ng there to his right,and said "he", "there is your prophet".

43 Q-I will ask you whether or not you had a conversation with Joseph Smith afterwards,or with any other personsthat were members of the church,as to who the successor would be? A-Well my fa ther in law was with me at the time,and he sat there and heard it,and when he was going home,-my father in law lived there at Nauvoo at the time,and when we were going home he asked me,said he"what does that mean",and he said "that has got a meaning to it from the way Joseph talked and pointed to his son",for Joseph has said "there is your prophet"pointing at the time to his son,and my father in law said"we will get the fulfil ment of that by and bye"said he "that has got a meaning to it".

44 Q-I will ask you now Mr Carter what the general understanding of members of the church was from that time on,so long as you remained in Illinois as to who the successor to Joseph Smiths position in the church would eventually be?

By Mr Cabell,-"That is excepted to for the reasons that it is irrelevant and immeterial,and does not pertain to the issues in this case,or any of them, and for the further reason that it is not the best evidence that counsel for the plaintiff seeks to prove by this witness."

A-Well it was the opinion of the people in the church as far as I understood it from that day on,when that boy,-Josephs boy,-came of age that he would take the lead in the church,and be its head. There was agreat many people believed that,and moreover Preside nt Young preached it himself for some time after he came into-the Valley. That has been the belief of hundreds and thousands,-was the belief then and is the belief to day.

By Mr Kelley,-

45 Q-I will ask you now Mr Carter if it was under that belief that you followed President Young west with the branch of the chutch now known as the Salt Lake church? A-I have always believed that ever since I heard Josepf say the words I have stated. I have always believed it ever since I saw his father point him out. I have always believed it,and I believe it to day just as strong as I ever did. I believe further that the time will come when he will lead the church,and all hell can't hinder him.

46 Q-When who shall leadthe church? A-Young Joseph Smith,-the present President of the Reorganized Church of Jesus Christ of Latter Dy Saints.

47 Q-I will ask you now Mr Carter what the fact is about the officers and elders,including Brigham Young and other prominent leaders of the church,who afterwards came west and located here in Salt Lake City and in Utah territory in the Salt Lake Valley,for several years after the death of Joseph Smith,publicly teaching and holding out the idea to the ~~xxxxxx~~ members of the church,that Joseph Smith,the son of Joseph Smith.Junior,-would eventually be the successor to the Presidency of the church? A-Well that was the idea he held out for some time after he came here

Well I think I know pretty well why they were not received.

48 Q-Well did or did not the fact of their publicly teaching or holding out thy idea that Joseph Smith the son-of Joseph Smith,Junior,would eventually succeed to the Presidency of the church,have anything to do with your following them to the Valley of Salt Lake? A-I do not understand you.

49 Q-I say did or did not the fact of their publicly holding out and teaching the fact to be that Joseph Smith the son of Joseph Smith,Junior,have anything to do with inducing you to come west to Salt Lake with the faction or branch of the church that came west under the leadership of Brigham Young?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is immeterial and irrelevant and has nothing to do with any ofthe issues involved in this case.

A-Well whether they did or did not,I have always believed it all the same.

50 Q-Would or would not you have followed the leadership of Brigham Young,or these parties that came west, if they had publicly at the time taught and advised the membership of the church that the son of Joseph Smith,Junior,would not eventually succeed to the Presidency of the church? A-I don't believe that one half the number would have followed him west that did. If they had told them that he would not I don't believe they would have got one half to follow them that they did get.

51 Q-I will ask you now Mr Carter in what book or books the doctrines and tenets of the church are to be found from 1834 the time you became a member of the original church,down to 1844 xxxxxxxxxxxxxxxxxxname the books if you can? A-The books of doctrine

52 Q-Yes sir,the books in which the doctrines and tenets of the original church from the time you became a member of the church in 1834 down to 1844 the time that Joseph Smith was killed? A-Well it is the book of covenants. You take out the polygamy revelation and you may take the balance. That was not taught from 1830 up to 1844 .

53 Q-What was not taught? A-Polygamy. Itx was not taught from 1830 down to 1834,-to 1844 I mean. Not publicly.

54 Q-What is the fact Mr Carter about its being taught either publicly or privately by Joseph Smith or by any of the members of the quorom of twelve of the church,or being contained in any of the publications, -any published record of the church,or book of the church prior to 1844? A-Well sir I never heard Joseph Smith teach it either publicly or privately,but about the time Brigham took the lead in the church it was taught.

55 Q-Well now wait. I did not ask you about that,and you are getting outside of the-question. The question xxx is xxxxxxxxx confined to the period from 1830 down to 1844,-to the period prior to 1844,and after 1834 the time that you became a member of the church? I am not asking you anything about what occured after that.

A-Well sir it was not publicly taught in any of the book of covenants,or in any of the publications or papers of the church,nor in the revelations that were received,or the commandments that were given. It was not taught or countenanced in any way in any of the laws that were given the church,and the parties in the church who preached the truth,were not authorized to teach anything else.

56 Q-What other book besides the book of doctrine and covenants contained the law of the church? A-Well sir I was present myself in 1837 when Joseph Smith himself in the Kirtland temple,took the bible,the book of Mormon,and the book of doctrine and covenants

and laid one on top of the other, and said "I motion that we take these three books for our guide and our doctrine",and Oliver Cowdery sat right behind him, and he seconded the motion,and the people unanimously accepted the books.

57 Q-I will ask you now Mr Carter,if the revelation known as,-the reported or purported revelation,on the doctrine of polygamy, ~~published~~ in any of the books containing the doctrines and tenets of the church prior to 1844? A-I don't think it was.

58 Q-Well was it? A- I say I don't think it was. If it was I have no-knowledge of it,and have never seen it at that time,and I don't think it could be in any of them without my seeing it. Well I will say it was not in any of the books of the church prior to that time,-not one of them. I never seen it any wxxxixxx way in any of them if it was in them,and I don't think it was.

59 Q-As a member of the church prior to 1844 you had a copy of the book of doctring and covenants? A-Yes sir. I had,and I have yet about the oldest one there is in the country,for I got it from Bishop Partridge in 1834,and I have got two more besides it since that time,and I have had them all the time as well as two books of Mormon,and I have had them all the time too.

60 Q-Does either of these books if published prior to 1852,contain this purported revelation on polygamy?

Counsel for the defendants objects to the question asked the witnessfor the reasons and on the grounds that the book referred to would be the best evidence of the fact inquired about.

61 Q-You may answer my question Mr Carter? A-There is something written in the book of Mormon,like this,-

62 Q-Well Mr Carter,-don't mind what is written in the book of Mormon,but just my question as to whether the copies of the book of Doctrine and Covenants that was published prior to 1852 contain that revelation on polygamy,or purported revelation on polygamy? A-Well now I don't know about the book of 1852,-that is the book printed in that year,-but it was I think presented to the church in Salt Lake in 1852,-that is the revelation was read to the people,and enforced on them.

63 Q-Well I move the court to strike out that answer of the witness for the reason that it is not responsive to the question. The question was whether your book or books of doctrine and covenants published prior to 1852 contained this purported revelation on polygamy? A-I think not.

64 Q-You think not? A-Yes sir,I think not. I think that revelation was put in since 1852.

65 Q-I will ask you Mr Carter if you were acquainted with the manner of doing business in the church during the leadership of Joseph Smith from 1834 down to 1844? A-Yes sir.

66 Q-You were? A-Well yes sir,I think I do know something about it. I think I-was acquainted with the manner of doing business. I think I ought to be.

67 Q-You were acquainted with the manner of doing business under the leadership of Brigham Young? A-Yes sir,I think I ought to be.

68 Q-You are familiar with the manner of transacting the business of the church both when the church was under the leadership of Joseph Smith and Brigham Young? A-Yes sir,I ought to be.

69 Q-I will ask you whether or not the manner of doing or transacting church business during conferences or latter times,was the same under the leadership of Brigham Young,as it was under the leadership of Joseph Smith in the original church? A-What is that?

70 Q-I ask you whether or not the manner of doing or transacting business,-that is transacting church business during conferences during the administration of Brigham Young was the same as it was or had been under the leadership of Joseph Smith?
Counsel for the defendants objects to the question asked the witnessfor the reasons that the books and records of the church bearing on that point are the best evidence of the facr.
A-No sir.
71 Q-They are not the same? A-No sir.
Cross examination by Mr Hall,-
72 Q-I believe you stated in your direct examination Mr Carter,that you are acquainted with the doctrines of the chutch,-that is of the old church from 1834 to 1844? A-Yes sir.
73 Q-You stated that as a fact? A-I did.
74 Q-And you also stated in your examination that you received a book of doctrine and covenants from Edward Partridge in 1834 I believe? A-It was either in 1834 or '35 I believe that we bought the book of ~~doctrine and~~ covenants,and I have got it in the house now. It very likely has the date in it,and if I had it hereI could tell you when it was.
75 Q-Well you state it as a fact that you received a book od doctrine and covenants from Edward Partridge in 1834? A-Yes sir I think I did. I have the book at home that I got them,and I think they called it the book of commadments at the time.-I believe thati is what they called it at that time if I am not mistaken,and I don't think I am either. There were two books,-the first book was called a book of commandments,and then it came out as a book of covenants
76 Q-Then the fact is that you got the b ook of command ments in 1834 instead of the book of covenants? A-Well I don't know which it was,but I have it in the house.
77 Q-Well if you are acquainted with the doctrine of the church,you certainly would be acquainted with the names of these books? A-Well there was a book of commandments and a book of covenants.
78 Q-Well now you have stated that the doctrines of the church that was led by Brigham Young,and also its practices are different from what the doctrines and practices of the chruch were from 1834 down to 1844? Is that what you stated Mr Carter? A-Yes sir,that is what I said.
79 Q-They differ? A-Yes sir.
80 Q-I will ask you in what particular? A-Well I could tell you lots of particulars if I had a mind to.
By Mr P.P. Kelley,-
81 Q-Well go on and tell him,for that is what he is asking you for,and he has a right to ask you these questions,so tell him all about it?
By Mr Cabell,-
82 Q-Well answer the question? A-In what particular they differ?
By Mr Hall,-
83 Q-Yes sir,-in what difference,-or particucar difference is that exists between the church under the leadership of Brigham Young and the church from 1834 to 1844 while under the leadership of Joseph Smith at the time you were a member of it under the leadership of Joseph Smith during his life time?
A-Well I could tell you one thing in particular, Joseph Smith never tried to take the agency from a man in regard to elections,-in regard to office and affairs in connection with the proceedings and dealings of the church. At least I never seen it in Josephs day and I

where they elected Bishops,and appointed and voted in ,and I have voted on them,and I never knew Joseph Smith to interfere in any way with the arrangements of the people in deliberating on these things in the way the law says,for Joseph always said he wanted it done by the voice of the people, and he wanted every man and every woman even,to vote,-

84 Q-I believe you said you were present when Brigham Young was chosen,-

By Mr P.P. Kelley,-

85 Q-Well wait until he answers the question before you fire another one at him?

By Mr Hall,-

86 Q-Well answer it? Have you any thing further to say in regard to that question? A-Yes sir.

87 Q-Well answer it? A-Well there was this difference between Joseph Smith and Brigham Young,-the difference was that Brigham claimed the right to appoint all the officers,both in the church and state,and Joseph Smith never did. Now there was one point of difference.

88 Q-Now is that question answered? A-YeS sir.

89 Q-And that is all the answer you desire to make to it? A-I guess that will do.

90 Q-Well now I will ask the question I was going to ask you when Mr Kelley interrupted me? You stated you were present when Brigham Young was chosen or nominated President? A-Yes sir I was. I seed it and heard it all for I was there.

91 Q-Was there a vote taken in that occasion? A-Yes sir

92 Q-Was there any priveledge granted for a negative vote? A-I don't know whether the negative vote was taken or called for or not,but I can tell you who appointed him or motioned him.

93 Q-Well who was it? A-It was Orson Hyde motioned him

94 Q-Made the motion that he be selected as President? A-Yes sir.

95 Q-Where did you say that was done? A-It was done at Kainesville in a log school house. Orson Hyde motioned him,and Brother Woodruf seconded the motion,and it was put to a vote and declared carried.

96 Q-Was there many there? A-There was about two hundred there I suppose. It was at a conference,-well you did not ask me about that,so I will not tell you

97 Q-Where was it? A-Is was at a conference appointed by Brigham and the Twelve to be held there,and it was two weeks from the time they had the big dance and feast and Orson Hyde,-well the people turned out and cut the logs and raised and built this big log school house,and then they appointed this conference,-Brigham and the twele did or the ones that were there of the twelve,and the people came together,and there was Brother Brigham and Brother Kimball and Brother Hyde,and I think there was several of the twelve there that time,and I think brother Woodruf was there also.

98 Q-Well what was done at that confrence,-that was the first thing that was done? A-When they got together he told them there was some business to be transacted at that conference,and he told what it was.

99 Q-Who told what it was? A-Brigham,-and then Orson Hyde motioned that brother Brigham would be our President,and Brother Woodruf seconded it,and it was carried unanimously.

100 Q-It was done by common consent? A-It was done by the vote of the conference. That was the way it was done.

101 Q-Well was it not done by common con sent? A-~~It~~ It was done by vote of the conference that was together there I say.

102 Q-Well was it not done by the general consent of the church that was there present? A-Yes, why of course it was.

103 Q-Well is that not the usual way and rule to do these things in the church. Is that not the law of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent, irrelevant and immeterial, not cross-examination, and calling for an opinion of the witness

Q-I don't think it was the church, for the church at that time numbered something between two hundred thousand and three hundred thousand and there was only about two-hundred present at the time that Brigham was elected President. It was just what I called a common meeting,-hardly that.

104 Q-I thought you said it was a Conference? A-Well it was called a conference appointed by Brigham and the twelve that were there but the church at large did not know anything about it at the time.

105 Q-Well now you stated that you were present at a meeting held in November? A-Yes sir.

106 Q-At that time you heard Joseph make certain remarks ~~xxxxxxxxxxxxxxxxxx~~ concerninh his son, young Joseph? A-Yes sir.

107 Q-That was at Nauvoo? A-Yes sir in the bowery there by the temple.

108 Q-Was there any vote taken at that meeting? A-No sir,-no vote at all.

109 Q-There was no vote taken on that? A-No sir,-it was not a matter or a time for a vote.

110 Q-What did Joseph do in reference to his son Joseph at that time? A-He just pointed to his son, and said "there is your prophet"?

111 Q-And you are positive there was no vote taken? A-No sir, there was not any vote taken, I know there was not,-I don't think there was. I don't recollect of any being taken, and I think I would remember it if there had been any taken

112 Q-Now Mr Carter have you ever read the revelation in the book of Doctrine and Covenants that was given on Fishing river in 1834? A-I know it.

113 Q-Have you ever read it? A-I think I have read it some good many times.

114 Q-Have you read the revelation on tithing? A-Yes sir, lots of times, and I have paid lots of it too since I have been in Utah.

115 Q-Is the revelation on tithing in the book of revelations you obtained in the early days of the church? A-I can't say,-

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immeterial, not cross examination and not the best evidence.

116 Q-Is it in that book A-No sir.

117 Q-It is not? A-No sir for the revelation on tithing was given in Far West in 1848.

118 Q-In '48? A-Yes sir, that is when the revelation on tithing was given, and that was the first of it.

119 Q-You say in '48,-don't you mean 1838? A-Yes sir that is what I thought I said, In 1838,-if I said 1848 it was a mistake and I meant 1838.

120 Q-Now was this revelation given on Fishing River, concerning Zions camp in the first edition of the book of covenants, you obtained

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that ~~xxx~~ it is irrelevant and immeterial,not the best evidence of the fact,and not cross examination.

A-I don't think it was.

I2I Q-Well do you know whether it was or not? A-I don't think it was I say,for I think that camp was started out of Kirtland before the first book of covenants was printed. I remember very well when that camp was started up,and I knowed considerable of the people that were in it,so from my remembrance of these things I think perhaps that was given afterwards.

I22 Q-Is it not a fact Mr Carter, that there may be some things in this book,that you are not competent to say you know anything about them.

Counsel for the plaintiff objects to the question asked the witness and the answer of the witness thereto,on the ground that it is ~~xxx~~ incompetent,irrelevant and immeterial,not cross examination,and not the best evidence,and calls for an opinion of the witness.

A-I don't thinkthere is but very little there but what I know about,for I have read it over hundreds of times I think.

I23 Q-Well,if you have read it over so many times,can't you state whether you have read that? A-What.

I24 Q-This revelation here? A-Why Yes sir I remember that revelation. I remember that for it was given on Fishing River.

I25 Q-Well my question was did you read that revelation in the same book of covenants,-that is the first book of covenants that you say you got?

Counsel for the plaintiff objects to the question asked the witnesson the grounds and for the reason that it is incompetent,irrelevane and immeterial,not the best evidence,and not cross examination.

A-I don't know.

I26 Q-Although you have read this revelation over so many times you can't say whether it is in the first book of covenants you got or not? A-No sir I can't say whether it is in the first book of coventants I got or not ,but I have read it in one that I have got all right enough.

I27 Q-Now sir you refer~~red~~ to be present in I837 when there was ~~xxxxx~~ three books accepted? A-Yes sir.

I28 Q-Where was that? A-At Kirtland.

I29 Q-Kirtland,Ohio? A-Yes sir.

I30 Q-You remember that distinctly? A-Yes sir for I see JOseph Smith pile them one on top of the other, and say,-"I motion that we take these three books,- the bible the book of Mormon and the book of doctrine and covenants to be our guide to go by". He said that and then it was seconded by Oliver Cowdery,and it was carried.

I3I Q-Do you know what edition of the doctrine and covenants he used at that time? A-It was the first book that was published I think. A-The first book that was out,-that was at an early date and I think it must have been about the first one. It was only about four years after the church was organized that I got the book of covenants first.

Counsel for the plaintiff objects to the question asked the witness and the answer of the witness on the ground that the same is incompetent and immeterial,not cross examination,and moves the court to exclude the answer of the witness for the same reason.

I32 Q-Did you have more than one edition of the book of doctrine and covenants at that time? A-Only one and it was called the book of

commandments, or book of covenants.

I33 Q-Now you said that polygamy was not taught in the time of Joseph Smith? A-Yes sir, that is what I said

I34 Q-Now is it not a fact that you said it was not publicly taught? A-Yes sir, I said it was not publicly taught,-not by Joseph Smith nor Hyrum,-nor while they lived,-at least I never heard them teach it.

I35 Q-You did not know them to teach it publicly? A-No sir, and I know men were cut off from the church for teaching it at that time.

I36 Q-Did you ever live in Nauvoo? A-I did for quite a while.

I37 Q-When did you live there? A-I was living there when it was broke up.

I38 Q-Were you there at the time of the death of Joseph Smith? A-Yes sir.

I39 Q-Were you there for the time just preceeding his death? A-I was. I was there and was in the guard of 100 men that were there just before the time he gave himself up. He sent us home as he did not think we were wanted, and after we were home a little while the news came that he was killed. I was not there when he went to Carthage but I was there a little while afterwards, and I was there then Brigham left there, and I left a little while after he did.

I40 Q-You have stated repeatedly, and have used the words that polygamy was not publicly taught while you were there during Josepgs life time? A-Yes sir.

I41 Q-Now did you ever hear of its being taught privately A-No sir not publicly.

I42 Q-Well that is not the question,-will you answer the question I asked you Mr Carter? A-Well what is the question?

I43 Q-During that period did you ever hear of polygamy being taught privately? You say it was not taught publicly, and now I ask you if it was taught privately or if you ever heard of its being taught privately? A-I think it was by some and I think it was practiced secretly by some, for I know of two or three of them there that seduced other man's wives and broke up there families, and that was done secretly, and I can tell you who they were and their names too if you want them.

I44 Q-In what transpired there, were there any public statements or accusations made that this doctrine was taught in the church? A-Well I think the first time it was ever presented to the High Council that was there, two or three of the High Council rejected it.

I45 Q-When was that? A- That was the first time the issue was ever raised. There was a man by the name of Harris, and another by the name of Marks and I forget the other man's name,-but they bucked against it,-they wouldn't have it and I don't think it was ever presented to another council or any where else until 1852 then it was presented here in Salt Lake City.

I46 Q-Did you hear of that revelation at that time in Nauvoo? A-Well I expect I heard of it as soon as any one in the country heard of it, for I talked with a man that was there in the council, and he told me about it.

By Mr Kelley,-"All this is objected to be cause it it immeterial".

By Mr Hall,-

I47 Q-Can you tell what year it was that these men objected to the revelation in the High council?

Counsel for the plaintiff objects to the question for the reasons and

on the grounds that the same is immeterial and not cross examination,and because the witness has already stated that he does not know as he was not there at the time.
A-Well sir I said I did not know the exact time,but it was soon after the death of Joseph.

I48 Q-Are you sure it was after the death of Joseph?
A-Yes sir,I am sure of it,for the man that told me about it was called to the council then,and he told me all about it,for they were in session fourteen days,and during that time this revelation was presen ted and there was nothing done with it because of the objection of these members of the council,and I know it was after the death of Joseph and Hyrum Smith

I49 Q-Were you acquainted with two men,one by the name of Austin Coles,and the other named William Law?
A- I knew William Law very well,and I presume I was acquainted with Autin Coles also.

I50 Q-Were you acquainted with a man by the name of Leonard Soby,a member of the High Council? A-Not particularly.

I5I Q-Were you acquainted with him? A-Not particularly but I have seen him.

I52 Q-~~X~~ Do I understand you to say that you were acquain ted with Austin Coles? A-I mi ght have known him, but I don't recollect the name for I am a poor hand to remember names,but if I see a persons face once, I almost always know it afterwards.

I53 Q-Were you at all familiar with the authorities in the church there at Nauvoo? A-Yes sir,I should say I was,I knew Joseph,and as you might say all the Smith's and Sidney Rigdon,and Oliver Cowdery and Parley Pratt,and all the twelve you might say. I knew them at the time. I knew Orson Pratt and the rest of them.

I54 Q-Were you acquainted with the President of the Stake,and his Counsellors? A-Yes sir.

I55 Q-Who was it? A-Marks,-I was well acquainted with him. He was the man that re-deemed the Kirtland temple,for there was a mortgage on it,and afterwards when he came there to Nauvoo he gave it ~~x~~back to the church.

I56 Q-You say you were well acquainted with the Presi-
I57 dent of the Stake and his Counsellors? A-Yes sir.
Q-Still you don't remember that you were acquainted with Austin Coles,who was one of the Counse llors?
A-Well I might be acquainted with him. I don't recollect that I was now,but as I said I am a poor cand at remembering names. If he was one of the Coun sellors I have no doubt but that I knew him at the time,but I don't no w recollect the name.

I58 Q-Do I understand you correctly,when I say that I understand you to say that the doctrinex of polygamy was privately taught in the church there at Nauvoo when you resided there? A-I think it was but I don't know that it was taught privately or in any other way before the death of Joseph and Hyrum. I couldn't say it was taught before his death,-that is before the death of Joseph,but immediately after his death it was priva tely taught.

I59 Q-I believe you stated just now that it was taught privately for some time prior to the time that it was presented to the High council?
A-No sir,I do not state any such a thing. It was stated to the high council,-the first time it was ever stated or presented to the High Council,there was three of the High Council rejected it,but that was after Joseph and Hyrum were killed.

I60 Q-How long afterwards was it tha t it was first pre-sented to the High Council? A-Well now a great while afterwards.

By Mr Cabell,-

I6I Q-Can you give any idea about how long it was? A-About how long what was,

I62 Q-About how long it was after the death of Joseph Smith before this revelation was presented to the council and rejected as you say by it? A-No sir I couldn't give it exactly. I know that old Daddy Manley was called into that Council after that,-

I63 Q-Well about how long was it? A-Well as I said I could't tell how long it was,but it was not a great while. It was at the time that Brigham claimed,- you know that Brigham claimed at Nauvoo to be the successor of Joseph Smith,and he claimed it was his right to lead the people from Nauvoo,but he was never appointed until after they got in winter quarters at Kainesville,but there was a vote taken on Brigham in Nauvoo,-well there was a dispute about it,for Sidney Rigdon claimed the right too to ~~xxxx~~ lead the people for he was Counsellor to Joseph,-

By Mr Hall,-

I64 Q-Now you said in your direct examination that there was some doctrines taught by Brigham Young after the death of Joseph Smith that were not taught before that time? A-Yes sir.

I65 Q-You said that? A-Yes sir,I did and I say it now. The doctrine of polygamy never was taught by Joseph Smith,-never in the world.

I66 Q-You state that as a fact? A-I do sir.

I67 Q-Do you state it would have been impossible for Joseph Smith to have taught that doctrine,without your knowledge? A-Well he might have taught it,but I never heard him.

I68 Q-You say then he might have taught that doctrine,but if he did you never heard him? A-Yes sir,if he did I never heard him, I was two years in Kirtland in the same place where he was, and then I went to Missouri,and from Missouri back to Illinois,and was there at Nauvoo up to the time of his death,and I never heard him teach any such a doctrine,but I have heard him denounce it,and he wrote a letter to the President of that branch to cut that man off from the church.

I69 Q-Do you know what year that was in? A-It was just before they were killed,-just a little time before they were killed I am pretty sure.

I70 Q-Well what year was it according to the best of your recollection? A-Well that was in '42 or '43,-'43 I think.

I7I Q-Now Mr Carter you spoke of a revelation that was presented to the High Council,-have you any knowledge of information as to the time that revelation was received by Joseph? A-What revelation?

I72 Q-The revelation on polygamy that was presented to the High Council as you stated,and which was rejected because of the opposition of two or three of the High Council to it?

By Mr Kelley.-"We object to that question for the reason that it is incompetent and immeterial,and not cross examination,and assumes a fact not true,the witness not having testified to any such a thing."

I73 (By Mr Hall)Q-Answer the question? A-What is the question?

I74 Q-You spoke I asked you of a revelation that was presented to the high council,-a revelation on polygamy,that was rejected by the high council,because of the objection of two or three of the members of the council,-now I asked you when that revelation was received by Joseph? A-It was not at that time. for it was after he was killed.

I75 Q-Well do you know when he did receive? A-No sir,and I do not believe he ever did receive it,and never did believe that he received it. Now that is the fact,-I never did believe that he received it,and I don't now believe that he received it.

I76 Q-Of what church are you now a member? A-I am a member of the Reorganized Church of Jesus Christ of Latter Day Saints.

I77 Q-You were a member of the church here in Utah were you not? A-Yes sir.

I78 Q-When were you baptized if ever? A-I was baptized at first in the year '34 in the state of Maine in Oxford County,in the town of Newry as I told you at first,and I was re-baptized in the reorganized church about seven or eight years ago.

I79 Q-The church here in Utah is called the Church of Jesus Christ of Latter Day Saints is it not? A-Yes sir.

I80 Q-When did you leave the church of Jesus Christ of Latter Day Saints? A-Well I can tell you,-I left it seven or eight years ago. I became dissatisfied with the way they were acting,-their doctrines and teachings,and so I left them and joined the reorganized church.

Re-direct examination by Mr P.P. Kelley,-

I81 Q-I will ask you now if the doctrines,teachings and tenets of the reorganized church,as you claim it,or call it,which you now belong to,are the same as the doctrines,teachings and tenets of the original church of Jesus Christ of Latter Day Saints which you belonged to prior to the year 1844? A-Well as far as I have any knowledge of it the doctrines and teachings are the same. If there is any difference I am not aware of it,for they teach the same doctrines out of the same books. I never have heard of them teaching any thing to the contrary if they do.

I82 B-They teach the same as the original church did prior to 1844? Is that what you mean to say? A-Yes sir,-the same as far as I can see. I know they use the same books and teach the same doctrine I believe. It is the same as was taught from 1830 down to '44 I believe and I know it is the same as was taught from '34 down to '44 for that was the time I was in the original church.

I83 Q-I will ask you now Mr Carter if while you were a member of the what is known as the Brighamite church ,or the-church here in Salt Lake,-whether or not Brigham Young the leader of that church,-the party claiming to be the President of it,publicly taught that Adam was God?

By Mr Cabell,-"That is objected to for the reason that there is not issue in the pleadings upon which to base such a question,nor is the question pertinent to any of the issues in this case,or any issue involved in the pleadings of this case."

A-He taught it.

By Mr Kelley,-

I84 Q-Who taught it? A-Brigham did.

I85 Q-How do you klow he taught it? A-I heard him"

I86 Q-I will ask you if that doctrine was taught in the original church prior to 1844 to your knowledge?

A-No sir,-never to my knowledge.

I87 Q-I will ask you,if while you were a member of the church Brigham Young claimed to be the President,he or the other officers of the church,or any of them, members of the twelve,taught the doctrine of blood atonement?

Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that it is incompetent and immeeterial,there being no- issue in the case upon which to base the question asked the witness.

A-It was. That doctrine was taught.
I88 Q-That is the doctrine of blood atonement? A-Yes sir
I89 Q-I will ask you if that doctrine was ever taught in the church,the original church,of which Joseph Smith was the President,prior to I844? A-No sir,never to my knowledge.
I90 Q-In you cross examination Mr Carter,you spoke of the fact of Brigham Young,here in the city of Salt Lake,in I852 presenting to the people,or congregation or church here,what purported to be a revelation. Now you may state what that was? A-Well it purported to be a ~~revelation~~ copy of an original revelation that had been given to Joseph Smith. It was the polygamy revelation,and Brigham said he has locked it up,-the copy of the revelation,-he said he had locked it up at the time,and I think he said that Emma Smith,Josephs wife had burned the original,and Bishop Whitney had burned the one he had,and this copy that was presented there Brigham said he had it locked up.
I9I Q-I will ask you if that was the first time the ~~p~~ purporting to be the revelation was ever presented to the church?
By Mr Cabell,-"That is excepted to for the reason that it is impossible for the witness to state whether or not it was the first time it had been presented to the chruch,for the reason that the witness has stated that he did not attend every meeting of the church at which such a revelation might have been presented."
A-Well I can state this of my own knowledge. I never knew it to be presented to the church or any congregation up to '52 from the time that Brigham left Nauvoo,-not to my knowledge.
By Mr Kelley,-
I92 Q-I will ask you this question Mr Carter whether or not at that time and at that place,Brigham Young himself,did not make the public declaration that no person except himself knew of the existence of the revelation that he presented,-that that pretended revelation that he presented at that time was in existence,-no one but himself knew of it? A-Well that was his remarks,-that no one knew it but him self.
Re-cross examination by Mr Cabell,-
I93 Q-Mr Carter you say that revelation ~~xx~~ was first presented here in I852? A-Yes sir.
I94 Q-That was the first time it was presented here in Salt Lake in I852? A-Yes sir. That is what Brigham said that no one knew of it but himself,but as I understand it it was first presented to the high Council of the Stake there at Nauvoo. It was presented as I understand it to the High Council there and three of the members,-that is three of the high council rejected it,and then Brigham Young said he locked it up in his desk and no-one knew about it until '52 when he brought it out here in Salt Lake to a meeting or conference,and brother Hyde it was read it to the congregation.
I95 Q-Mr Carter do you know of your own knowledge that the doctrine of blood atonement was adopted and taught by this church here?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is not cross examination and immaterial.
I96 Q-That was taught and adopted by this church here?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as stated in the ~~xxx~~ foregoing objection.

A-This church here in Utah.

197 Q-Yes sir? A-Yes sir.

198 Q-You swer it was taught and practiced here,and adopted by the church? A-Yes sir,and if you doubt it, and I should tell you of half a dozen instances where it was practiced or put in operation ~~would you~~ *You would* believ it.

199 Q-Well that is not answering my question,-my question was do you know that that doctrine was taught here in Salt Lake,by the church,of your own knowledge? A-Yes sir.

200 Q-You now it was taught? A-Yes sir.

201 Q-How do you know it was taught? A-Because I have heard it taught myself from the stand"? That is how I know it was taught. I have heard it taught to a congregation.

202 Q-When was that? A-That was in Provo.

203 Q-When was ~~that~~ it? A-Well it was not more than four or five years ago. It was the doctrine that if a man belonged to the church and apostasized and fell away from the church,that the shedding of his blood should atone for the sin. That was the doctrine sir and I heard it taught from the stand right there in Provo City.

204 Q-What other time have you heard it taught? A-Well I have heard it taught,but not right exactly from the stand,-not exactly in public,-but I have heard it taught in other places.

205 Q-You heard this doctrine of blood atonement taught in Provo you say,not more than four or five years ago? A-Yes sir.

206 Q-Was that at a meeting? A-Yes sir.

207 Q-That was at a public meeting? A-Yes sir.

208 Q-When? A-Well it was there one Sunday in Provo. I will tell you the name of the man who taught it too ,if you want to know it.

209 Q-Well I don't want to know. You were not a member of the church then? A-Well I am not aware of the fact if I have ever been cut off from the original church,-from Brigham's church.

210 Q-I mean this Salt Lake church,-you were not a member of it then? Is that not the fact? A-No sir. I have never been cut off from any church since I joined it in 1884. They preferred a charge against me after I joined the reorganized church,and sent me a notice to be at the meeting house at six o'clock in the evenin. and answer the charge of apostasy,and I told the messenger who brought the message to go back and tell the Bishop to put it off until the next morning at nine o;clock,and I would be there then and answer to the charge,and that was the last I heard of it,for I never heard of it from that time to this,and I have seen the bishop fifty times since then I suppose,but he don't say any thing about it to me.

211 Q-I understood you to say you were a member of the churchat Nauvoo,and were a member of the church until about seven or eight years ago? A-Yes sir,I joined the church in '84 and I belonged to it until the break up in in '46,and then I came through to the valley here with the part that came under Brigham Young,and if you want to know what made me leave this church,if it is a church,here and join the reorganized church,I can tell you all about it. There is nothing disgraceful in the way I left the church and joined the reorganization,and I aint ashamed to tell anybody all about it. I can tell you but I don't think it is pertinent to tell you about that here at this time,for it has not anything to do with this case at all that I can see.

212 Q-Well now Mr Carter you said that you heard this doctrine of blood atonement taught in Provo,not more than four or five years ago? A-I did,-that is what I said.

2I3 Q-And it was in public? A-Yes sir.
2I4 Q-Well now was that doctrine taught by the church as a body? A-It was taught by those in authority in the church.
2I5 Q- Was it taught by the church as a body? A-It was taught by church authority.
2I6 Q-It was taught you say by church authority? A-Yessir
2I7 Q-How do you know that? A-I know it,-I know it was taught by those in authority in the church.
2I8 Q-Was there any official action taken on it by the church as a church?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial and not cross examination.
A-Well I can go back to the history of the church, to the doctrine that was taught here in Salt Lake by individuals,and show you that they would not have taught it if it had not been sanctioned by the church
2I9 Q-Well answer my question,-was any official action on it by the church,-that is on the doctrine of blood atonement,-was any official action taken on that by the church in the way of adopting it or sanctioning it? A-No sir not that I know of,-no official action,-Those things were done in secret and it is hard to say that there with absolute certainty,but when I see the Bishop or President of the Stake holding it and teaching it,or by appointinga man to preach they sanction what he says,I consider it is official.
220 Q-Well that is not answering my question,-My question is,was there any official astion taken by,the church in the matter? A-No sir,no official action in that way,but the church by its action showed that it countenanced it,for the bishop would appoint men to preach and they would declare it from the stand. That is pretty near as official as anything was done in this church out here. You must remember that the church here does business in a different way from what was done in Josephs day,or is done to day in the reorganization,and whatever was done here in the valley was done by the leaders of the church about as they wanted without consulting the church to any very great extent.
221 Q-That is an opinion of yours merely? A-No sir it is the fact. We old timers here know too much about these things,-we know them while we may not be able to come right out and prove them.
222 Q-Did you not understand that the doctrine of the church was contained in the bible,the book of Mormon and the book of doctrine and covenants? A-That wa the understanding I got in the Original church,and the Elders were instructed to preach nothing else when they preached the gospel,-Only faith,repentance and baptism for the remission of sins,and the book of Covenants was the law of the church.
223 Q-Well now if there had been any change in that faith and doctrine,would it not have been noted in the book of doctrine and covenants?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial and not cross examination.
234 Q-Wouldn't there have been some official publication action taken on it? A-There might have been,and there might not.
235 Q-Well,in order to make the book a law of the church, wouldn't it have been necessary to have done that? A-It would be necessary,b ut you must understand that in this case there,-in the actions of

this church there was a great many things necessary to be done that were not done. This church out here did not do things always as the laws says they should be done.

By Mr Kelley,-

236 Q-You have a copy of the book od doctrine and covenants that contains the first publication of the purported revelation on polygamy,-I believe you so stated? A-Why I have got it in a little history word for word.

237 Q-Well answer the question,-that is not an answer to my question? A-What is the question?

238 Q-Have you got the book of doctrine and covenants that contains that? A-No,and I know I wouldn't have it either. I don't want it about me.

239 Q-Do you know when that purported revelation on polygamy was first published,-that is the first time it was put out in book form as a part of the book of doctrine and covenants I mean? A-Well it was very recently it was put in there,-that is was put in the book of foctrine and covenants. I think it was the greatest dicgrace possible to the Brighamite church when they took the law of marriage out of an old book,and put in that polygamy revelation. I think it was the greatest disgrace that could be,an eternal disgrace and dishonor on them for doing that.

240 Q-I will ask you Mr Carter if it is not a fact,that the first publication of that purported revelation on polygamy was made,-as in the book of doctrine and covenants,-was made in the year 1876? A,What is that ,-what is the question?

241 Q-I asked you if it is not a fact that the first edition of the book of doctrine and covenants that contained that purported revelation on polygamy was not made in 1876 ?

Counsel for the defendants objects to the question asked the witness on the ground that the question is leading. and does not call for the best evidence.

A-Well I can't say exactly when the book was made or published that it is in,but I know it has not been a great while,

242 Q-Are you acquainted with the book known as the Journal of Discourses? A-Yes sir.

243 Q-You have seen it? A-I should say I have. I have it,and I have read it all through and through,and there are some bad discourses in there too.

244 Q-I will ask you of what that book consists,-that is what it is made up of?

Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immeterial,and does not call for the best evidence,the book itself being the best evidence,and it has not been produced here at the taking of these depositions.

A-Well If I am to answer the question I will say that it is made up of discourses preached here in Salt Lake City mostly.

245 Q,I will ask you if it is not a fact that the doctrine of blood atonement was taught publicly in the City of Salt Lake by Brigham Young himself,and whether or not it is not a fact,that the sermons in which he publicly taught the doctrine of blood atonement is printed in,and is a part of the book to which I have referred?

Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds that it is immeterial and irrelevant to any of the issues involved in this case,and the book itself is the best evidence of what it contains.

A-I think J.M. Grant preached the roughest sermon on blood atonement that I have read.

246 Q-Is that in that book too? A-Yes sir.

247 Q-Well answer my former question? A-What is the question?

248 Q-I asked you if it is not a fact that the doctrine of blood atonement was pyblicly taught here in the city of Salt Lake by Brigham Young himself,and whether it is not a fact that the sermons in wcich he publicly taught the doctrine of blood atonement are printed in,and form a part of the book to which I have referred to as the Journal of Discourses? A-Yes sir,I think it is recorded in ~~that~~ that book,-the Journal of Discourses

249 Q-Now in your cross examination you referred to a pretended ,-to a revelation or something bei ng presented to a high council at Kirtland? A-No it was not in Kirtland.

250 Q-It was at Nauvoo was it? A-Yes sir,at Nauvoo.

251 Q-I will ask you if you saw that document at ~~thet~~ any time,or knew at the time what it was ? A-I saw one,-a revelation on polygamy that was printed ~~xxxxxxxxx~~ before Nauvoo was broken up,-

252 Q-Well now wait,-the question is this? I will ask you this question. Did you see the paper or know anything of the contents of the paper,that you say was presented to the high council in Nauvoo? A-No sir I didn't,

253 Q-Did you or did you not know that the paper that was presented to that High Council contained the same matter as this polygamous revelation printed in the book of doctrine and covenants issued by the church here in Utah in I876?

Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that it is

irrelevant and immeterial not re-direct examination and ~~xxx~~ does not call for the best evidence.

A-I presume it was the same that was there,but I don't know for I don't remember.

254 Q-Well do you know anything about what was on the paper that was presented there to the High Council at Nauvoo,and which you say was rejected? ~~A-No sir~~ Do you know anything of your own personal knowledge about what was on that paper? A-No sir,I never saw it and I don't know anything at all about what was on it,only by the report of one of the council.

Plaintiff poves the court to strike out all the testimony of this witness about what was presented to the High Council in Nauvoo,for the reason that it is incompetent, immeterial and hearsay.

It being impo ssible to complete the taking of the depositions ~~xxx~~ herein on this day,the further taking of the same was continued by the Examiner until the hour of half past nine o'clock in the forenoon of Tuesday March I5th I892,then and there to be continued at the place in that behalf aforesaid.

Now on this Tuesday forenoon at the hour of half past nine o'clock,the same being the hour to which the taking of these depositions ~~xx~~ herein was continued on yesterday, come the parties hereto,and the further taking of deposi

tions was continued pursuant to adjournment.-

John Taylor,of lawful age being produced,sworn and examined ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ on behalf of the plaintiff herein,-

Direct examination by Mr P.B. Kelley,-

I Q-Mr Taylor where do you live? A-I live in Plain City District eight miles from Ogden.

A — I have lived there ever since I came from Canada in 1844

2 Q — How long have you lived there?

X ~~X~~*
I came from Montana in '74 and I have lived there ever since
3- Q-You have lived near Ogden,-eight miles from Ogden, ever since you came from Montana in I874? A-Yes sir
4 Q-How old are you Mr Taylor? A-Well sir I was born in the year 'I2. I will be eighty years old the seventh day of next ~~November~~ December.
5 Q-Were you a member of the original Church of Jesus Christ of Latter Day Saints? A-Yes sir I had.
6 Q- I guess you do not understand my question? A-What is that?
7 Q-I said I guessed you did not understand my question A-Perhaps not,for I am a little hard of hearing.
8 Q-I asked you if you were a member of the original Church of Jesus Christ of Latter Day Saints? A-Under the Presidency of Joseph Smith do you mean?
9 Q-Yes sir? A-Yes sir I was.

I0 Q-When did you first become a member of that church? A-In I832 it was that I first joined it. I joined the church in November of that year,in Monroe county, Missouri.
II Q-Where were you born Mr Taylor? A-In Warren county, Kentucky,-Bowling Green was the county seat.
I2 Q-Did you ever live in Jackson county,Missouri? A-Yes sir.
I3 Q-When? A-I went up to Jackson County in I833.
I4 Q-In I833 you went to Jackson county you say? A-Yes sir,it was in '33 that I went up there to Jackson County,and landed at Independence the first Sunday, the tenth day of the month.
I5 Q-What month? A-In April. The tenth day of April it was that I landed there in Independence on the temple block.
I6 Q-Did you know Edawrd Partridge in ~~Independence~~ Jackson County, Missouri? A-i did sir.

I7 Q-You knew him at Independence? A-I did sir,for there was a meeting held there on the temple block, and I saw him there at that meeting.
I8 Q-What kind of a meeting was that? A-It was a meeting of the branch,-the Independence branch meeting. I joined the branch there. I belonged to that branch there.
I9 Q-Do you know what position he held in the church? A-Edward Partridge do you mean? ~~Q-Yes sir? A-Yes sir,I know. He was the Bishop of the church.~~
20 Q-Yes sir? A-Yes sir,I know. He was the Bishop of the church. He was a Bishop in the church.
2I Q-What other officers of the church was there at Independence when you first went there in I833? A-Oliver Cowdery,John Whitmer and W.W. Phelps were there,and brother Morley Carrol,-they were the Bishop's council,and they were there. & Calvin Beebe was there and George Beebe ,and John Whitmer and David Whitmer,and all of them.
22 Q-You knew these gentlemen did you not? A-Yes sir, I was acquainted with all of them while I was there.
23 Q-Do you know where Edward Partridge was living in I833? A-He came to me after the meeting was over, and took me home with him to his house. He had put up a house there,and that was on Sunday he took me home with him,and on Monday morning I commenced working for him.
24 Q-On Monday morning you commenced working for him? A-Yes sir,I commenced quarrying rock on the temple lot the next morning,and he showed me where to get the stone,to build a chimney to his house,and there was no floor in the house at that time,but it was covered.

25 Q-He asked you to quarry or get out the stone to build a chimney? A-Yes sir,he said he would like me

for him,and I went to work and did it.
26 Q-Well I don't know that that is of importance,-I just wanted to know where he lived? A-He lived there in that little house he had that had no floor in it.
27 Q-Well where was that house standing? A-I think it was on the temple block.
28 Q-It was on the temple block? A-I think it was. That is my impression about it,but I would not be positive it,but I think it was on the temple block,or near by the temple block there some where. I couldn't be positive,but I know that is the recollection I have had of it all the time,and I am pretty positive that it was right there on the temple block.
29 Q-Do you know who purchased the property originally of which the temple block is now a part,-the temple lot I mean? A-How is that?
30 Q-Do you know who purchased the land originally,-that is who purchased it in the first place,-the land of which the temple lot in controversy in this suit is now a part? A-Well Id no't know about it. If it is a part of the land that was called the temple block at the time that I was there in Independence it was a part of the land that was purchased by Bishop Partridge. I can't a nswer that question though,by saying I know.
31 Q-What do you know if anything about Edward Partridge the Bishop of the original church,purchasing property in Jackson County for the church?
Counsel fot the ~~plaintiff~~ defendant excepts to the question asked the witness for the reason that the witness has just stated that he did not know who purchased the property in question.
By Mr Kelley,-"The witness has stated no such a thing,-on the contrary he has stated that he does know,but he does not know that the land in controversy is the same land,or a part of the land that was known at that time as the temple block."
32 Q-You may answer the question? A-Now my understanding mind you, was that this property was church property. that was my understanding mind you,but as to who entered the land or who bought it I can't say.

33 Q-What if anything did Edward Partridge say to you about the character of the property?
Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that it is immeterial and hearsay.
A-Well he took me to the corner stone,or the stone that marked the temple,-He and Morley both took me there,and said that was the place where the temple would be built. That was the first time I ever saw that piece of ground that was called the temple block there in Jackson county,Missouri,and that was on the tenth day of the month of April 1833.
34 Q-Do you know anything about members of the church contributing money for the payment of the purchase price of that land?
Counsel for the defendants objects to the question asked the witness on the ground that it is leading.
35 Q-If you know anything about that you may state what it is? A-Well I do know something about it.I know that I contributed some money myself to it. I don't know though that I can name any other person in particular that did contribute money.
36 Q-That was for the purpose of paying for this land? A-Yes sir.
37 Q-In whose hands did you palce that money that you contributed? A-Bishop Partridges hands.
38 Q-How much did you place in his hands for that purpose? A-Thirty dollars was what I put in his hands.

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36 Q-That was for the purpose of paying for this land? A-Yes sir.
37 Q-In whose hands did you palce that money that you contributed? A-Bishop Partridges hands.
38 Q-How much did you place in his hands for that purpose? A-Thirty dollars was what I put in his hands.

39 Q-You may state now if you know whether other parties contributed to this fund for this purpose,and whether or not Partrige had a large amount of money that had been contributed by members of the church?
A-I could not say that I know anything about that.
40 Q-Well did he have a large amount of money? A-He had a lot of money there,b ut who contributed it I couldn't say. I know that I contributed thirty dollars,but who contributed the rest I couldn't say for I don't know. I might go a little further and say it was my understanding that there was money put into his hands for the purchasing of lands,and I was to deed,-he promised me a deed,- to make out a deed for my inheritence in the land it was as I supposed and I supposed the deed to the land must have been in his name,otherwise he would not have offered to make me a deed because he couldn't make it unless the land was in his name. It must have been in his name for he told me he would make out a deed for mine,but in the meantime before he could do it,the mob was raised and they came here and tore things up so that we had to leave and I never got my deed.
4I Q-Now what is the fact about your having a deed,or to have a deed,or the same as all the other members of the church who contributed the money? A-My understanding was that I was to have a deed for the land that was to come to me,from him,and that all the other members of the church were to have deeds,that would settle on the land were to have deeds. They were to get these deeds from Edward Partridge,but I understood all the time that the land was the church-e's land,and did not beling- to him,although it must have been in his name or he could not have made the deeds as he agreed to do. Now I do not know that to be a fact,but that is my understanding that they were all to get deeds for theri inheritence.
42 Q-Now what do you know about this land being bought with church funds,or with Partridge's own individual money?
Counsel for the defendants objects to the question asked the witness on the ground that it is leading.
A-Yes sir,that was my understanding that that land was bought with the money of the church. There were some people that came there that did not consecrate their substance to the good of the church,but went ahead and bought land on theri own account,-speculators you might call them. They brought money there for the purpose or speculating with it and purchasing land,and did purchase land,for they knew of this revelation regarding the temple and they knew that there would be a great many people come in there and the country would be quickly settled up and there would be a good town there,and the land would raise a good deal in value so the came there with their money for the purpose of speculating and bought land with it. There was a few,not many that went up there for that purpose,but of course they had a right to to it if they saw fit to do so.
43 Q-Now it is so long since you commenced you answer I don't know whether you have answered my question, or whether you understood it? The question was,what you knew,if anything about the land there that you say was sub-divided into these lots you have been testifying about,being purchased with church funds, or with Edward Partridges own individual money?
Counsel for the defendants objects to the question asked the witness for the reason and on the grounds thatit is leading.
A-Well I could not say as to that,but I presume accor ding to the

understanding I had it was purchased with church money,because he told me he put in his money what he had,-I think it was ten thousand dollars that he said he was worth when he came into the church and he told me that he had put it in. He was a hatter by trade,and he was worth considerabme money when he came into the church.

44 Q-Was it or was it not a fact,that the members of the church who came there and located,were expected under the rules of the church to consecrate their property,or part of it to the church for church purposes?

Counsel for the drfendants objects to the question asked the witness on the ground"that it is leading,irrelevant and immeterial,and on the ground that it calls for improper evidence,and shows on its face that it is hearsay."

A.-Yes sir,that was the understanding.

45 Q-They were expected to contribute a portion of their property by way of consecration to the church?

A-Yes sir.

46 Q-For church purposes? A-Yes sir.

47 Q-Now what were those church purposes if you know,-what was the object and purpose of contributing this to the church if you know? A-To purchase lands.That was my understanding.

48 Q-Now you said I believe that,-First I will ask you if you saw the church funds at any time? A-Well he showed me the chest thy money was in.

49 Q-Who showed you that? A-Bishop Partridge. He showed me the chest he kept the money in,and I saw him take money out of it and I saw him put money in it too.

50 Q-I will ask you if you were at Far West in Caldwell County,Missouri,at the time the church was there? A-Yes sir I was.

5I Q-Where did you go from there? A-I went out of the State.

52 Q-Where did you go to? A-I am not sure whether it was in Adams county,or in Hancock county. I am not sure which county it was in fot it was just near the line where I was, It was five miles above Lima,and that was in Adams county eight miles below Warsaw. That was where I stopped.

53 Q-Warsaw,Illinois? A-Yes sir.

54 Q-Well where did you go next? A-To Nauvoo.

55 Q-What time did you go to Nauvoo? A-It was about '40(I840)if I mistake not. I think it was about forty that I went there.

56 Q-Now what position,-first I will ask you if you held any position in the reorganized church? A-Yes sir.

57 Q-In the reorganized church did you say?

58 Q-You held the position or office of a teacher in the original church? A-Yes sir.

59 Q-For how long? A-From September I832 until Josephs death in I844.

60 Q-What did you do,if any thing,in the way of performing the duties of the office of teacher from the time you went to Nauvoo until I844? A-We had our bonds set off for us,-two teachers to each ward to look after the members of the ward,to see that no evil speaking or back,biting,or no iniquity was practiced,and to see that all members of the church did their duties. That was our mission to teach and instruct them from the book of covenants and book of Mormon and the new testament. I might say one word more in addition to what I have stated,we were to go from house to house, and visit every house.

61 Q-Well in the performance of your duty as teacher, what did you teach the people in your ward? A-To turn to prayers was one thing. We taught them to attend to theri prayers,and to see to it and watch that there was no iniquity or back biting or evil speaking,and if they had any hardness towards each otherto inquire into it and find out if there was any such hardness,and if there was any trouble like that to go to-workand get the parties together,and have them settle it by arbitration.

62 Q-Well what your duties in case you found any body with more than one wife? A-To report them.

63 Q-Report them to whom? A-To report them to the President of the Teachers Quorom.

64 Q-How many was there in that Quorom? A-There was twenty four in that quorom. It was an organized quorom,and our instuctions were if we found any case of that kind to report it to the Preident of the Teachers Quorom,and the President was to report them tho the brother Hyrum Smith,and that was the instructions brother Hyrum gave in the quorom. We were not to report these alone but any other misdemeanor that we would find in our wards,and they were all reported alike to the President of the quorom who-inin turn reported them to brother Hyrum. Now remember I do not mean to say that there was any such a thing as polygamy being taught at that time or practiced for that matter for it was about that time that John C. Bennetts secret wife system came to be heard of,and it was rumored around that there was such a thing as that and that was the reason thet the instructions were given us,for we were-told to search it out and find out what there was to it if we could. That was the way it was,and so I got after him and saw him and saw him go into a house that did not have very good reputation,-

65 Q-How was that? A-I followed him to that house there in Nauvoo where it was said that this thing,-this secret wife system was practiced,and saw him go into it,but he was pretty cunning and never would go to the house,or enter it until it was dark. He used to go there with the saddle bags on his arm. He had a white linen coat and and white pants,and he was said to be a doctor,and he was going around treating people,-

66 Q-Who was that? A-The man that was called Dr John C. Bennett. He said he was a doctor and would go around treating people for one thing and another, and he would go into these houses,where the women were,and those women that were in them were suspicious women that did not bear good characters,for they could not get out into female society there in Nauvoo ,although they attempted to do so. They wanted to get into the female society there but didn't do it on accountof their not being good characters,for they were not considered good characters at all and did not bear good characters. Well I heard about this and that he visited these houses,and so I went around to watch him and see if I could catch him going there and so I hot into a crab apple patch,-well now shall I tell this out?

67 Q-Yes sir,-tell it right out? A-Well I got into this crab apple patch that was there,and I couldn't hide myself very well there,-that is I couldn't hide very well any where else,and as I wanted to see all that was going on. I saw him coming and I watched him, and just before he got to the house he would look this way and that way and the other way,and the woman that was there was watching him,I thought to see what he was doing,but he did not see me and I watched him until I saw him step right into the house

68 Q-I will ask you now Mr Taylor whether during that time you were a teacher from I832 up to I844,there was any rule or law of the ~~church~~ original church that promoted the practices or principle of polygamy? And state what it was ,if there was any such a law?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is immeterial and does not call for the best evidence,-the books of the church containing its laws being the best evidence of that fact".

A-May I go back to Jackson County?

69 Q-Go ~~to~~ any where from the time you were selected as a teacher in I832 down to I844? A-Well all right then. If you give me that liberty then I will do it Well I went about there for three or four weeks visiting and teaching,-

70 Q-Was that at Independence? A-Yes sir,-I went about visiting and teaching the people,and visiting all the houses I saw. I went to a man by the name of Claudious Hendricks,and there was a woman living in his house,and I felt as though there was something wrong about it,although I had no evidence,-that is no proof,-

7I Q-Well wait,that is not answering my question?

By Mr E.L. Kelley,-

72 Q-Well let him go on and answer the-question. Let the witness go on and answer it as he wants to. They want it,and let them have it,for we have nothing to conceal,and we wnt the truth to come out all of it let it strike whom it may. Go right on and finish your answer? A-Well I'll do it. There was a man,-this woman's husband was an elder,and he was sent here on a mission,and she stayed there at Hendricks place,and he went and got her with a child,the same as old David did Uriah's wife',-He got her with child while her husband was gone,and he was brought up and cut off from the church for it.

By Mr P.P. Kelley,-

73 Q-I will ask you now Mr Taylor whether during the time you were a teacher from I832 ~~xxxxx~~ up to I844, there was any rule or law of the original church, that permitted the practice or principle of polygamy and state what it was if there was any such a law? Now that is the question I asked you some time ago, and which you failed to answer? A-No sir.

74 Q-Do or did you know of any such a law in the church? A-There was no such a law I am sure,-at any rate if there was I did not know anything about it.

Cross examination by Mr Cabell,-

75 Q-Mr Taylor I believe you stated you knew where Mr Edward Partridge lived in Independence Missouri? A-Yes sir,I did.

76 Q-And I believe you also stated that you got the rock or stone to build the chimney to his house from the quarry on the teple block? A-Yes sir,I quarried rock for the chimney.

77 Q-Did you quarry it on the temple block? A-Yes sir I think it was on the temple block. Yes sir it was on the temple block.

78 Q-You are positive that Edward Partridge lived on the temple block at the time? A-I think he did. I would not be right positive,but I think he did. I think also the house in which the meetings were held was on it too. I think that both were on it,and they were too unless I am greatly mistaken. There was two houses there and I am positive almost that both of them were on it.

79 Q-Do you know where the Lexington road was located there? A-Yes sirI think I do.

80 Q-Well where was it located? A-Well I don't know as I can describe

81 Q-Well describe about where it was? A-Well I can't do it for my recollection isn't as good as it was,- It is not as good as it moght be you know,and it has been a great many years since that time,-sixty yaers ago almost and that is a long time for a person to remember a thing like that,but then I was there I knew where all the roads were but I suppose it is all changed now.

82 Q-Well was the temple block near the Lexington road, as nearly as you can remember? A-It was not far away from it,but I can't tell you how far it was away from it.

83 Q-How far was it from the Lexington road that you quarried this rock for the chimney that you spoke of? A-I couldn't tell you that neither for I never measured it,and I don't know.

84 Q-Well have you and idea? A- A-No sir I don't know that I could even makv a guess at it. I don't know sir that I have an idea in regard to that sir. You are asking me these questions sir,and you must remember one thing that this has been a great many years ago. It has been a great many years since I was there ,and my recollection is not so good as it was once on these things,-not so good as it was when I was middle aged.

85 Q-Which side of the Lexington road was this quarry on A-Well I think it was north of it- I think the road was north of ir,-I think the road was north of the temple block,or north of where it was.

86 Q-You think the road was north of whery the temple block was you say? A-Yessir. That is my impression, but still I would not be positive. I think it was north,but as I say I wouldn't be positive about it for I am a little careful about how I make my statements,and what I know I state positively and what I am not positive about I do not state positively.

87 Q-Well how far from the Court house in Independence block is this temple block I have been talking about,-about which you have been testifying? A-Well it was not far from the Court house,but I couldn't tell you the distance exactly.

88 Q-Can you approximate the distance it was from the Court house? A-No sir I don't wish to go into it at all,-that is to state how far it was,for I can't do it,any further than to say it was not far. I merely state to you that I was on the ground,and that I was led to the corner stone,and saw the corner stone. The stone was up above the ground that marked the place where the temple was to be,and I saw it myself with these eyes you see me have now.

89 Q-Was the distance about as far from the Court house to the place where you quarried rock as it was from the Lexington road? A-I couldn't say.

90 Q-Well was it about as far,-about as far from the Court house to the place where you quarried rock,as it was to the Lexington road,-was the place to where you quarried the rock about that far from the Court house? A-I tell you I couldn't say positively

91 Q-
Well can't you say something about it? A-I do say something about it. I say I don't know,and I don't else I would tell you.

92 Q-You can't remember is that it? A-Yes sir,-I can't remember,and I never measured it. I would not undertake to say what it was without knowing,and I don't know. I can say however,that I was on the temple block,-I can say that,for I was there

93 Q-Do you think the place where you quarried the rock was inside he temple block? A-My understanding that it was fifty acres. That was my understanding that there was fifty acres inside the block or lot.

94 Q-But I am ~~not~~ talking about the distance from the Court house? A-Well I don't know for I never was at the court house. I was young at that time,and I went away a short time after that. I was there only a little while,and then I went down on Blue,-on the Blue it was called.

95 Q-Well do you say it was within a block of the Court house this corner stone that you say you saw there? A-That was called the temple block.

96 Q-Well do you say it was within a block of this corner stone? A-No sir I have told you that I would not undertake to tell you how far it was from there to court house,but it was not far,-that is my recollection now. I would not undertake to state the distance sir,I have told you that,for I don't know.

97 Q-Well do you think it was a block,or more than a block from the place where you quarried this rock to the corner stone,-the corner stone of the temple block? A-I don't wish to say anything about that for I don't know. I know that it was not far from the court house,although I never was at it. The place where I quarried the rock was not a great ways from the court house,but how far it was I can't say.

98 Q-As a matter of fact,Mr Taylor,do you know where the property is that is in litigation in this suit? A-I do sir. I was on the ground. I stood there on the ground and Bishop Partridge showed me where it was,and I quarried rock there on that ground too,and Bishop Partridge showed me the place where it was,-that is the ground that had been dedicated for the temple,and that stone was put there to mark the place as a land mark- as I understood from both him and Morley.They both told me that together.

99 Q-Did he tell you that the whole fifty acres was the temple block? Did he tell you that? A-What is that?

At this point in the taking of the deposition of this witness,upon the reading over to the witness of the shorthand notes of his testimony upon the request of the parties hereto,the reading of said witnesses evidence was continued until the hour of half past one o'clock in the afternoon, This notation being made upon request of ~~x~~ counsel for the defendants.

100 Q-Did he tell you that the whole fifty acres was the temple block? A-Well that is my understanding, that there was fifty acres of ground there laid off there for the temple block. Now I don't know how it was,but that was my understanding of it from what they told me.

101 Q-Are you positive as to that? A-I am pretty certain of that,but I might possibly be mistaken,but at any rate that was my understanding of what they told me. I can't remember now what they said,-the exact language that they used forit was so long ago,but that is my understanding of it.

By Mr Hall,-

102 Q-I would like to ask Mr Taylor where he lived before he moved to Jackson county,Missouri?

By Mr P.P. Kelley,-"I wish you gentlemen to understand that this is a violation of law and the rules of conducting an examination in cross-examination this way. I do not care which one of you conducts an ~~ex~~ cross examination or any other examination,but I wish the man that starts either the direct or cross examination of a witness to finish an examination. I will however,withdraw any objection in this particular instance,but I wish you to understand that in the future I shall object to both of you conducting

By Mr Hall,-

I03 Q-Very well. I have just a few questions to ask Mr Taylor, and we will try and not trespass on your patience any further in this respect. Mr Taylor where did you-live prior to the time you moved to Jackson county, Missou ri? A-I was not of age at the time but lived with my father in Monroe County, Missouri. I was under age and had to stay with my father un til he gave me my free dom, and he gave me one year

I04 Q-Then you lived with your father in Monroe County, Missouri prior to the time you came to Jackson county A-Yes sir.

I05 Q-How old were you when you lived xxxx in Jackson County, Missouri? A-I was in my twenty second year.

I06 Q-Now you stated in your direct examination that you gave Edward Partridge thirty dollars A-I did sir.

I07 Q-For the purpose of buying the temple lot?- A-For the purpose of purchasing lands, mind you. It was not to purchase the temple lot mind you, for this temple lot had been purchased before that mind you. My money did not purchase that xxxx xxx lot, for it had been purchased before that.

I08 Q-Then you never gave one dollar to Edward Partridge for the purpose of buying the temple lot? A-No sir.

I09 Q-
It is a fact that not a dollar of your money was contributed for that purpose? A-No sir, not to purchase that temple lot, for it had been purchased before I got there. It went,-the money that I gave him, -went to purchase other land, or using it for what ever purpose he saw fit to use it for. Now that was the way I put it in sir. The money was not mine any longe or course after I gave it to him, but I was to get land for it.

I10 Q-I believe you stated that Edward Partridge had about ten thousand dollars of his own money at that time? A-No sir. That was my understanding, but it was not at that time. It was when he came into the church mind you. Understand me to say that when he came into the church he had about that amount, for he was a man in good circumstances.

I11 Q-You do not know, or do you know of your own positive knowledge, whether or not he had used his money for the purpose of purchasing property there in Independence? A-No sir.

I12 Q-You don't know anything about that? A-No sir I don't know who purchased the land or entered it, or anything about it at all. It was all done before I got there, but the land where he lived I understood,- or it was my understanding at least that it belonged to the church. That it was church property.

I13 Q-That was your understanding you say, but you did not know anything about it of your own knowledge? A-It was stated to me it church ppoerty. Now I had that statement from Bishop Partridge personally, and you can call it personal knowledge if you wish. He told me it was church property, and had been purchased for the church, and was dedicated as church property, and aside from what he told me I know it was said to be church property. Now it might have been in his own name,-I can't say as to that because when I asked him for a deed,-I mean when he proposed to give me a deed, I suppose of course it was in his name because he offered to make me a deed, and he couldn't do that unless it was in his own name. He couldn't have made me a deed if it had been entered in some body elses name.

I14 Q-Now you spoke something about seeing money in a chest. Do you

know of your own knowledge who contributed that money that you saw in that chest?? A-I couldn't say anything about that,for I don't know anything about it

II5 Q-You don't know anything about that? A-No sir.

II6 Q-You don't know whether it was Edward Partridges money,or church money? A-No xxx sir.

II7 Q-And you did not asertain anything about that,-that is whether it was Edward Partridges money or church money? A-No sir I did not inquire about that for it was none of my business. I attend to my own buiness and I let every man attend to his,-that is the way I try to live.

II8 Q-Then it is a fact that you do not know whether that money that you saw you saw Edward Partridge have in that chest was his own money or money that belonged to the church. Am I correct when I say that is what I understood you to say? A-I suppose it was the churches money,for he called it the "Lord's storehouse",-all the store-house he had. A little"storehouse in the church",-they used that name,and he said that was the Lord's store house.

II9 Q-Do you state that as your knowledge of the facts, or as your understanding? A-Well,-it is my understanding sir,and that is what he said to me,and you can call it the churches money or whatever you please. He said it was the Lord's store house,and I concluded from that that it was the money of the church He pointed it out to me and said"there is our money in that trunk. He pointed it out and showed it to me,and I saw him take money out of the xxxxx trunk, but what use he put it too of course I don't know. Now that Is what I know about it,-I saw him take money out of that trunk or chest,and I saw him put money in it too.

I20 Q-You spoke or referred x in your examination in chief to consecrating property ,and you also referred to some that came there to speculate? A-Speculate?

I2IX Q-Yes sir? A-Well now,-

I22 Q-Well now wait until I get through with my question Did the majority of the members of the church consecrate their property in fact? A-I think they did.

I23 Q-You "think they did"? A-Yes sir,and a good large majority too.

I24 Q-Were theyorganized under that law of consecration and all things in common? A-No sir. "All things in common"? That was not in it sir,and has nothing to do with it,for we never believed in having all things in common at all.

I25 Q-That was not a part of your belief,-having all things in common? A-No sir.

I26 Q-But you had what you call the law of consecration? A-Yes sir to consecrate all above what your needs are,-all above your needs or support mind you now.

I27 Q-To the Lord's store house? A-To Bishop Partridge.

I28 Q-But these individuals that you refer to that came their to speculate,did they also observe this law? A-There was some few men came there with money,and bought up a lot of land to speculate on it. There was a good many people coming in there and some of these individuals came there with money and bought land to speculate in it for there was the probability of a rise in the value of land around there on account of the numbers that were gathering there and there was a few,-not a great many,-that bought up some two hundred or three hundred acres of land each and some of them more than that,and they did not consecrate it, Now what we called "consecrate",was to consecrate it to the church all above what a man needed for his support,and that was not compulsory,- There was no—

thing compulsory about it at all,for no man was compelled to do it. If he did it was voluntary on his part and not compulsory.

I29 Q-Do you understand that was the law of the church at that time? A-I understand that was the command or law,-all above a mans needs he was to consecrate,-remember that,all they had above their needs for their support. If they had more money than they needed that was put in. Remember that was not compulsory on any one though.

I30 Q-Now you stated that at one time you watched John C. Bennett go into a house that some females lived in? A-Yes sir.

I31 Q-You said you watched him and saw him go into a house that some females lived in that had a very bad reputation? A-Yes sir.

I32 Q-Did you report that to the authorities?

By Mr Kelley,-"That question is objected to for the reason that it is incompetent,irrelevant and immeterial, and not cross examination,and I distinctly stated at the time the witness ~~xxxxxxx~~ made the answer referred to in the question that the answer was not called for and was not responsive to the question,and the witness was permitmited to go on and ~~xxxxxx~~ complete his answer on the request of the defendant in this case,and subject to the objection of the plaintiff."

By Mr Hall,-

I33 Q-Did you report that fact to the authorities? A-What I had seen?

I34 Q-Yes sir? A-I did sir when I had caught him.

I35 Q-Can you state about what year that was? A-If you will let me go on I will tell you a little more.

I36 Q-Well I would like to get the year first?,if-you can state it? A-All right sir.

I37 Q-Well if you can state what year that was you may do so? A-Well that was in the year of '42 I think sir,if I mistake not.

I38 Q-Can you state about what time in the year ~~xxxx~~ it was that this happened? A,It was some time along in the latter part of the season.

I39 Q-It was some time in the latter part of the year? A-Yes sir. Now I will tell you about that,-they built an ill fame house there,-

I40 Q-Who built it? A-John C. Bennett and a lot of them built an ill fame house there near the temple,and there was a meeting ground in the oak grove near by there,and they put up an ill fame house right by there,and after they had put it up,John C. Bennett and the Fosters,-I did know pretty near all their names at one time,but my memory is treacherous now, and I can't remember names like I once could for that reason. At any rate of this ill fame house that was built there John C. Bennett was the head man of it, and after they got it built they wrote on it in large letters what it was for,-an ill fame house,and the sign that they put on it proclaimed what it was,and what it was there for,but I don't remember just what the inscription or sign was that they put on it. Well when we went to go to meeting we could not get there,-that is we couldn't get to meeting without passing this house there looking right at it,for it was close to the meetings grounds,and a thousand or two thousand would go there to meeting on a sabbath day,and they didn't feel very good seeing that house there with these great big capital letters right there facing them when they would look at it. Well that house was built right there close there to the temple and the meeting ground,for it was right on the same street but a little north of the temple, and I lived just a little north of it too,right on the same street.

Well the city council held a counsel over it,and they considered it was a nuisance to the city,and they so declared it to be a nuisance. They considered that house was a nuisance,and the authorities passed an ordinance against it,and notified them to move the nuisance ouside of the city limits,and gave them time sufficient to do so. Well they paid no attention to that order for they did not feel inclined to obey it and they did not mov e it. They had some furniture in it.-not much,-and the police gathered around and one of the policeman went to go in to move some of the furniture,or some things that were in it out,and John Eagle,-a man by the name of Eagle,-a tall raw boned stout man that weighed over two hundred pounds,-they called him "Bully,and he was a bully to look at him,-he hit the policeman and knocked him down,and Joseph Smith took him by here (indicating the seat of his breeches and the nape of his neck),-he took him by the breeches there and here,and he pitched him right out,and "that is the way we do away down east"said Joseph,and that settled it. Well they went in then and took the building and put it on rollers,and there was a deep gulley there and they pitched the house in it,-they just rolled the house off and tipped it over in this gulley shingles and all,-down it all went into that gulley, and that was the end of that transa ction. That was the end of that bad house,fot I called it a bad house,and it was right there defore the meeting xxxxx ground almost or right close to it any how.

I41 Q-Well now although that long answer is not responsive to the question I asked you,still I will not move to have it stricken out like you did yesterday Mr Kelley with some things that did not suit you. Well now after you reported John C. Bennett to the authorities do you-know that any action was taken on his case? A-Yes sir there was.

I42 Q-Well what was the action? A-He was cut off from the church.

I43 Q-For that offence? A-Joseph Smith got on the stand and called him "John C. Skunk Bennett",-that was the name he gave him,-"Skunk".

I44 Q-Well now what time was that? A-That was at the time or about the time that he wss cut off.

I45 Q-You mean that was the time Joseph applied the term to him you have stated here? A-Yes sir.

I46 Q-Well what year was it? A-That was about 1842.

I47 Q-What time in 1842 was it? A-I would not be positive but I think it was in the latter part of '42,-but I would not be right positive to that you know. That is the test of my recollection about it though.

I48 Q-It was in the latter part of 1842 then? A-I would not be right positive as to the week or month,but it was right along about that time some where.

I49 Q-You think it was in the latter part of 1842? A-Yes sir,according to the best of my remembrance that was when it was.

I50 Q-Well now had you discovered anything in the conduct of John C. Bennett or in his actions to report? A-I told you that I had been on the watch before it. I told you I had traced him to these houses before what.

I51 Q-Before what? A-Before I reported him.

I52 Q-How long before you reported him? A-Well it was not a great while,-now it was not long. It was called "the secret wife xxxxxx doctrine",and he was the head boss of the secret wife,or plural wife doctrine too I suppose.

I53 Q-Now you have just spoken of John C. Bennett

tem or secret wife doctrine?' A-Yes sir,that is what it was called.

I54 Q-It was called that there in Nauvoo at that time? A-Yes sir.

I55 Q-Now then when did you first hear that referred to or spoken about there in Nauvoo? A-Well it was not long before the time that he was cut off from the church.

I56 Q-Well about how long before that,did you first hear it spoken of? A-It was only a little while before he was cut off. It was not long before because the church did not tolerate such things at that time,when it was known. It wasn't a great while before he was cut off.

I57 Q-After he was cut off? A-No sir,-before he was cut off. That is what I told you before. What is the use of being asked these same questions over and over again.

I58 Q-When I understand you questions,-your answers Mr Taylor and hear them plainly I will not repeat them, if you have answered my questions. Now I will ask you if after John C. Bennett was cut off from the church did you hear anything there in Nauvoo about this secret wife system or polygamy being practiced there by any one? A-No sir there was no polygamy. There was no talk of polygamy talked of there at that time,-that is by the authorities you understand me,-that is what I say,-no talk of any kind about that by the authorities,-none at all. Joseph Smith and Hyrum Smith never taught polygamy,and there was no revelation on polygamy that I ever saw,-no law or revelation on polygamy or celestial marriage or anything of the kind and the church was governed entirely a monogamy church from '32 at the time I embraced the work up to-the time of Josephs death.

I59 Q-Are you through with your answer? A-Yes sir.

I60 Q-Well now please pay attention to my question,-My question is not with reference to Joseph ~~nor~~ Hyrum Smith or what they taught,but my question is,was there any talk by any one about that doctrine of plural marriage or polygamy as it is ~~sometimes~~ commonly called? A-Yes sir.

I6I Q-There was? A-Yes sir.

I62 Q-By whom? A-A man by the name of Brown taught that doctrine.

I63 Q-What was done with him? A-And he was notified and cut off from the church.

I64 Q-You know to be the fact? A-Yes sir that man by the name of Brown taught that and he was cut offfrom the church,and there was another man by the name of Durfy went out to Layhart and he told the people there he thought the time would come when they would practice polygamy,or the same doctrine in reference to plural wives,that David and Solomon did. That is what this man named Durfy taught,and there was a man by the name of Hewitt heard it,and he came right straight to Nauvoo,and he went to see Hyrum about it,and he told Hyrum what this man was teaching or preaching,and Hyrum sat right down on the well curb and wrote ~~him~~ a notice to him that such a doctrine wouldn't do to be taught in the church,and he wrote to him,-I know that for I saw the letter after he wrote it,Mr Hewitt read it to me.

I65 Q-You saw that letter you say? A-Yes sir,I saw that letter,and it was a severe rebuke,-a severe rebuke.

I66 Q-Did you ever see that letter published in the Times and Seasons? A-I couldn't say,but it seems to me though as if I had seen it,but I wouldn't be right positive,but I saw tge letter and brother Hewwitt read the letter to me.

Times and Seasons? A-I think I can.

168 Q-You think you could identify it? A-Yes sir,I think i can. His name would identify it I think. I think I could tell it.

169 Q-Have you your glasses so you can read? A-You read it yourself.

170 Q-Well I would rather you would read it if you can? A-Well I will tell you,-I am a poor reader,and I don't know that I can read it.

171 Q-Well I will read this over to you,and I would like you to state if you recognize it,-it is as follows,-

"To the brethern of the Church of Jesus Christ of Latter Day-Saints living on China Creek in Hancock County,Greeting;-Whereas brother Richard Hewitt has called on me today,to know my views concerning some doctrines that are preached in your place,and states to me that some of your elders say that a man having a certain priesthood,may have as many wives as he pleases,and that doctrine is taught here;I say unto you that that man teaches false doctrine,for there is no such doctrine taught here; neither is there any such thing practiced here. And any man that is found teaching privately or publicly any such doctrine,xwo culpable,and will stand a chance to be brought before the High Council and lose his license and member -ship also;therefore he had better beware what he is about.

And again I say unto you that an elder has no business to undertake to preach mysteries in any part of the world, for God has commanded us all to preach nothing but the first principles unto the world.Neither has any elder any authority to preach any mysterious thing to any branch of the church,unless he has a direct commandment from God to do so. Let the matter of the grand councils of heaven,and the making og Gods,worlds and devils entirely alone;for you are not called to teach any such doctrine--for neither you nor the people are capacitated to understand any such principles--less so to teach them. For when God commands men to teach such principles the saints will receive them. Therefore beware what you teach,for the mysteries of God are not given to all men;and unto those to whom they are given they are placed under restrictions to impart only such as God will command them;and the reidue is to be kept in a faithful breast,uther wise he shall be brought under condemnation. By this God will prove his faithful servants,who will be called ,and numbered with the church

And as to the celestial glory,all will enter in and possess that xxxxxx kingdom that obey the gosmel;and continue in faith in the Lord unto the end of his days. I say unto you,you must cease preaching your miraculous things,and let the mysteries alone until by and bye. Preach

faith in the Lord Jesus Christ,repentance and baptism for the remission of sins;the laying on of the hands for the gift of the Holy Ghost;teaching the necessity of strict obedience unto these principles;reasoning out of the Scriptures;proving them unto the people.

Cease you schisms and divisions and your contentions.

Humble yourselves as in dust and ashes,lest God should make you an ensample of his wrath unto the surrounding world. Amen. In the bonds of the everlasting covenant,I am your obedient servant Hyrum Smith."

Now that is the letter is it not,and it dates at Nauvoo,March 15th 1844? A-That was the purport of it.

172 Q-Well you recognize that don't you as the letter you referred to? A-Yes sirI recognize the language of it,but I did not think at the time he read it to me that that there was so much of it as there is there% I did not think there was anything like as much of it as there is xxxxx It has been a good while ago,-almost fifty years ago,and that is a long time to remember these things you know.

I73 Q-Well you recognize it do you not as being the letter? A,-I recognize some of rhe language. It sounds something like it. I recognize the language,but it seems to me that there has been something added on to it,- I will say considera ble added on to it more than what he read to me. What he read to me there that day was a letter written by Hyrum as he was sitting there on the well curb so brother Hewitt told me,and it was just on a little bit of paper,and I don't believe that all that could have been written on such a little piece of paper as he had. It seems to me that there is something added on to it more than there was at the time he read it to me. That is the way it seems to me,and there is a good many things there that I don't recognize at all.

I74 Q-You cannot identify that letter then as being the letter that Mr Hewitt had on that occasion? A-No sir ,not all of it,for there is a good many things there that I don't remember,and there seems to be so much more of it. Don't understand me as identifying it,for I don't,but still there are things in there that sound like it. There is things in there thatI can't idenrify,and I don't see how all that could be put on the paper that he had there for it was only a small piece of paper that he had,and I don't think all of that could have been on it. Now I did not see Hyrum write it but brother Hewitt told me that Hyrum sat right down on the well curb and wrote it, and he came over to where I was after he got the letter and read it to me.

I75 Q- What was Mr Hewitts name'? A-His name was Richard Hewitt.

I76 Q-And you say you did not see him write the letter? A-No sir.

By Mr Cabell,-

I77 Q-You did not see Hyrum write the letter you say? A-No sir I didn't"

I78 Q-Then how do you know he wrote it? A-Hewitt told me he wrote it. Hewitt was there and saw him write it,and he told me that Hyrum wrote it,on the well curb

I79 Q-Now not having seen him write that letter then you cannot say of your own knowledge that Hyrum Smith did write it? A-Oh no sir,not positively,but this man that told me was a number one man a truthful man,and he would not tell me anything that was not so,and I could depend on everything he told me.

I80 Q-Well what I want to asertain from you is simply if you knew it of your own knowledge,or whether it was simply a matter of hearsay. A-No sir of course I don't know it of my own knowledge,for I did not see brother Hyrum write it,but nevertheless what brother Hewitt told me I believe to be the truth or he would not have told me what he did.

Redirect examination by Mr Kelley,-

I81 Q-Now Mr Taylor in your cross examination you were asked about this letter? A-Yes sir.

I82 Q-What letter do you refer to? A-The letter that Hyrum Smith wrote and delivered to Mr Hewitt to take to these brethern out at the place where this man was preaching this doctrine,or telling the people that the doctrine of plural marriage would some time soon be taught in the church.

I83 Q-Well never mind that,-Now did you see this letter at the time it was read to you? A-No sir it was some time after that.

I84 Q-Well I mean at the time it was read to you did you see it? A-I did see the letter.

To me as if there was double as much as there was at the time he read it to me.

I85 Q-Did you see the hand writing? A-Yes sir,I saw the handwriting,but I did not read it.
I86 Q-Well how was the letter read,if you did not read it A-He read the letter.
I87 Q-Who read the letter? A-Hewitt did.
I88 Q,
And you saw ~~x~~ the writing? A-Yes sir I saw the writing the same as if you had a letter open there and I could see it. I saw the writing when Hewitt was reading it to me. I did not read it though at all,for Hewitt read it to.
I89 Q-What was the full name of the man that read the letter to you? A-Richard Hewitt.
I90 Q-Whose handwriting was the letter in,if you know? A-I could not say.

I9I Q-You don't know whose hand writing the letter was in? A-No sir for I did not see it written but Hewitt said it was in Hyrum Smith's hand writing. He told me that Hyrum Smith wrote and gave it to him.
I92 Q-Now I will ask you two or three questions that will not be re-examination,and I will ask them as a part of your direct examination. I will ask you Mr Taylor if you were acquainted when you went in Far West,Missouri,with a man by the name of E.G.Gates? A.Gates?
I93 Q-Yes sir,-Gates,-E.G.Gates? Were you acquainted with a man by that name when you were at Far West, Missouri? A-Yes sir,-that is I was partially acquain ted with him. I knew him by-that name.
I94 Q-Where did he live? A-In the city,-in Nauvoo.

I95 Q-No that is not it. Where did he live when you knew him in ~~Far~~ ~~West~~ Missouri? A-Where did I live in Missouri?
I96 Q-No,where did Gates live at the time you knew him in Missouri? A-I don't know what you mean sir.
I97 Q-I asked you if you knew a man by the name of Gates ,-E.G.Gates when you were residing at Far West Miss- ouri,and you answered that you were acquainted with a man by thatname.~~sir~~ A-No sir,that was a mistake,- it was at Nauvoo that I knew that man.
I98 Q-Did you know him when he lived at Far West Missouri before he went to Nauvoo? A-Yes sir,I saw him there
I99 Q-Well that is what I want to know? A-I saw him there,yes sir.

200 Q-Did you know Elias Higbee in Far West Missouri? A-I did sir. I was well acquainted with him,for I knew him when he lived in Jackson County,Missouri, and worked for him there. I made eighteen hundred rails for him there.
20I Q-What official position did he hold in the state of Missouri? A-He was Judge of the County Court in Caldwell County,Missouri.
202 Q-Who was Judge of the county court in Caldwell County,Missouri? A-Elias Higbee.
203 Q-Did Edward Partridge live there at the same time? A-Yes sir.
204 Q-What time was that? A-That was in?,-well it was just before they moved in '38. It was in '36 or '37, -some where along there.
205 Q-Well was that before they moved,-you say that was just before they moved,-moved from where? A-From Far West.
206 Q-Well what year did they move in '38 or '39? A-In '38 and some in '39. That is in the spring of '39,- I went in '39 myself I remember,but a good many of them went out in '38.
207 Q-Where did Edward Partridge go from Caldwell County, Missouri? A-To ~~Kinney~~ Quincy.
208 Q-To Quincy,Illinois? A-Yes sir.
209 Q-Where did he die? A-In Quincy.
2I0 Q-In what state is that? A-In Illinois.

2I1 Q-In what year? A-Do you want to know what year it was that Bishop Partridge died?

2I2 Q-Yes sir? A-I can't remember the year. I can't remember now what year it was,but it was not very long after we were driven out of Missouri. It was a very little while after that. I remember that my father died about the same time,and Father Smith died also about that time,-they all died about the same time,-all three of them.

2I3 Q-Well what time did your father die? A-He died in the fall of '39.

2I4 Q-What time in the year did they leave,-did Partridge leave Caldwell County,Missouri?,if you know? A-What time in the year?

2I5 Q-Yes sir,what time in the year,spring,summer fall or winter? A-Well probably in the winter or spring some time. I think he was amongst the last to leave, and some may have left later than that even. I don't know how that is very well. I couldn't say what time exactly he left,but I think it was in the spring. I know I left there in the spring.

2I6 Q-Well I am just asking about Edward Partridge alone ,-what time did he leave there? A-Well now I couldnt say exactly what time he did leave there. I just stated that he left there in the spring,but I believe I was mistaken about that,for it seems to me it was in the winter that he left there. Now that is my impression that he left in the winter,but I would not be right positive about that.

Re-cross-examination by Mr Hall,-

2I7 Q-What time was it Mr Taylor that you knew this man referred to as E.C. Gates at Far West? A-It was there at Far West.

2I8 Q-Well what year was it? A-Well the move from Caldwell County was started in '38 and it was before that I knew him. Now I wasn't acquainted with him at Far West,but I knew him by sight while he was there,-that Is I knew him when I saw him and knew who he was

2I9 Q-Can you state positively that you saw this man Gates there in Far West,Caldwell County Missouri., in the month of May I839? A-No sir,I would not make any such a statement,for I don't think I did.

220 Q-Can you state that you saw him in I839 at any time? A-In Far West?

22I Q-Yes sir,or any where else? A-I saw him in Far West,for he was there previous to the time that they moved.

222 Q-You are aware of the fact that there was a movement going on commencing in I838 and continuing into-I839? A-Yes sir.

223 Q-Now can you swear positively that you saw him t here in I839 in Far West? A-No sir. Now sir you asked me if I saw him there in May I839 and I say no sir to that question,for it is my impression that he left there before May. Now that is the impression that I have about it,but still it may be possible that he was there in May,but I don't think he was,for I believe he left before that time.

224 Q-Can you swear positively that you saw Elias Higbee there in I839? A-I can sir. Well hold on there? in '39? Not in '39 I guesss because Elias Higbee left there,and I knew when he left

225 Q-When did he leave? A-He left directly after the army dispersed,or the mob dispersed,-he neft immediately after that. He did not go with his family though. Elias Higbee went first himself to Illinois and then sent for his family.

226 Q.Well what year was that? A-That was in I838.

227 Q-That was in 1838? A-Yes sir. It was immediately after the mob dispersed, and that was in ~~xx~~ '38.

228 Q-Then you are positive he left there in 1838'? A-I am,-to the best of my recollection I am.

229 Q-Now you stated that Edward Partridge went to the town of Quincy, Illinois~~x~~, ~~xx~~ and died there? A-Yessir

230 Q~~x~~Well, are you positive of that? A-I am pretty positive of it.

231 Q~~x~~You state it as a fact? A-I am pretty positive it is a fact. That is my impression now.

232 Q-Well do you know it as a fact? A-Well he was never at Nauvoo. If he had been I would havee seen him, but I never saw him there.

233 Q-Do you know about the time that Edward Partridge left Far West? A-Not positively, but I think he left right in the winter. That is my impression, because the waggons were coming and going all the time, and of course there was a good deal of confusion, and for me to give the precise date that everything occured, of course

I can't do it, but this much I will say that he went to Quincy,-Bishop Partridge moved to Quincy and I believe he died there.

234 Q-Could you swear that you saw Edward Partridge in Far West in 1839? A-No sir, because I moved from Far West myself in March, when the snow was that deep, and I laid down on the snow, and had my bed on the snow and slept in it, and I am pretty positive it snowinnnxxslept

was in March, for it was in March that we had the big snow that year, and it was about the deepest snow of the winter.

235 Q-Do you know about the time in March that you left Far West? A-Well it was about the first of March,-some where along there.

236 ~~Q-About the first of March you say you left?~~ A-Yes sir, ~~A-Yes~~

By Mr. Kelley.- ~~sir~~, some where about that time.

237 Q-Did you leave in March '39 or '38? A-March '39 was the time I left, because they were driven,-well now, maybe I am mistaken about that. We had to leave, and they commenced leaving right away after we were

ordered to leave. After that they commenced fixing and moving their things away in waggons right away.

238 Q-Now do you know of your own positive knowledge whether Elias Higbee left Far West in 1838 or 1839? A-I do, it was in 1838 ~~xxxx xxxxxxxxx~~sir that he left John Butler was the name of another man that was,-

239 Q-Well sir never mind that? You have answered the question and that will do? A-Well he left in '38.

240 Q-Who left in '38? A-Higbee,-Elias Higbee.

241 Q-Do you know whether he came back from Far West,-to Far West I should say, -do you know whether or not Elias Higbee came back to Far West again after he left that time? A-I think not. I don't know that he ever came back. I don't think he ever did come back for he sent for his family,-or his family went to him

242 Q-Do you know of your own knowledge whether he did go back or not? A-I don't think he ever did.

243 Q-Well do you know whether he did or not,-do you know anything about it? A-I don't think he did I say.

244 Q-Well I don't want what you think about it,-we want what you know? We want to know what you know about it, and not what you think? A-Well I don't believe he ever went back. Now that is my belief about it. He never went back,-that is my belief about it, and I am pretty positive in my belief.

245 Q-Can you state the date when Higbee left Far West? A-Well if I was permitted to examine the records I might come pretty close to it, but from my recollection I wouldn't like to state positively~~x~~ the fact when he left there, for I couldn't do it positively

246 Q-Suppose the record showed that he left there on the fifth day of March A.D. 1839 in Far West

Counsel for the defendants objects to the question asked the witness for the reason and on the ground that it is leading.

A-Well I didn't see him there in 1839. If he was there I did not see him. I have no knowledge of his ~~thing~~ being there if he was.

247 Q-Suppose I say the records shows that he was there on the 25th day of March 1839, can you say in opposition to what the record shows that he was not there?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that the same is leading, and repetition of a matter regarding which the witness has already testified.

A-I did not see him there. I left there in March, mind you, and I did not see him there. I never went back any more after that, and I know while I was there I never saw him back any more after he left. I never saw him after he left Far West until I saw him in Nauvoo.

248 Q-Were you there in Far West on the 25th day of March 1839? A-I wouldn't be positive, but I think it was the fore part of March that I left. I know there was snow on the ground, so you may guess it was early in March.

At this point an adjournment of the taking of these depositions was taken until the hour of 1.30 o'clock P.M. of the same day, at which time the further reading of the deposition of this witness was continued from the point there in indicated by question numbered 100 as hereinbefore set forth, and after the completion of the reading of witnesses deposition as before stated, the witness made the following corrections,-

"Higbee might possibly have gone back to Far West and me not know anything about it. He might possibly have gone back to Far West at the time you stated, and me not know anything about it, for it was a time of great confusion, and we were all busy fixing houses and places for our families, and as I kept no record of these things, what I have stated I have stated just merely from my memory of things that have traspired that I was acquainted with, and he might possibly have gone back and been there at that time. Such a thing might have occured, and me not know anything about it Now as regards Bishop Partridge, my recollection is that he died at Quincy, but it is possible he might have died in Nauvoo, and me not know it, ~~but I did not see him there in Nauvoo~~. Now as regards Bishop Partridge my recollection is that he died at Quincy, but it is possible he might have died in Nauvoo and me not know it, but I did not see him there in Nauvoo.

By P.P. Kelley,-

249 Q-Now what time did you go to Nauvoo,-what year? A-In the year of '40.

By Mr Cabell,-

250 Q-I wish to except to the correction made by the witness of his former testimony, for the reason that it was made several hours after the completion of his testimony.

By Mr P.P. Kelley,-"Let the record show that the plaintiff denies that it was several hours after the completion of the witnesses testimony before the corrections were made, but that the corrections were made at the time of the reading overxx of the testimony of the witness to the witness by the examiner

by the Examiner,-"The fact is that the correction was made by the witness immediately upon the conclusion of the reading of the testimony, the witness at the hour of half past one o'clock upon the resuption of the reading of his evidence, having indicated a desire to [illegible]

a desire to correct his testimony,but by the direc-
of the examiner he deferred making the correction
until the conclusion of the reading of his testimony,
when the witness made the correction above stated."
By Mr Cabell,-" I want to object to the further examina-
tion of the witness for the reas that defendants
examination of the witness has been completed,and was so
announced by counsel for plaintiff at the time of adjourn
for noon."

By Mr Kelley.-

251 Q-Mr Taylor in you cross examination you referrod to the fact of the removal of Elias Higbee's family from Far West to Nauvoo. I will get you to state now when that occured,and who removed them? If you know? A-Oh I could not tell you who moved them.

252 Q-DI you know whether or not Elias Higbee himself moved them? A- A-Such a thing might be that he moved them. I can't positively say but that was my ~~understanding that he left,-that was my impression and understanding that he left,and then he might~~
understanding that he left,-that was my impression
and understanding that he left,and then he might
after that have come back and got his family. I
couldn't say in regard to that but such a thing
might have been,but it is my understanding that he
left before Christmas.

By Mr Hall,-

253 Q-Mr Taylor I would like to ask if Edward Partridge or Elias Higbee or E.G. Gates were at Far West at the time you left in March 1839? A-I don't think they were,I don't hardly think they were. I don't remember seeing them there,and if they were there I don't remember anything about it.

254 Q-You think you would have known it if they had been there? A-Well,they might have been there,and I did not know it,for at that time I moved from Far West down on what is called Long Creek,about ten or twelve miles from Far West to where my father was,and I was fixing to move,for my father had teams and I had no team,so my father fixed me out with a team.

By Mr Kelley,-

255 Q-Now at the time,-what time of year was it that you left Far West and went down to your fathers place,- what time of the year was that,and how long before you started for Illinois? A-Well I think it was,- well now I think my wife was confined,- well it was about two weeks before I went down to my fathers. I think the child was about two weeks old before or at the time I started for my fathers place.

256 Q-Then as a mattyr of fact you were not at Far West at all in March 1839 but were ten or twelve miles from there,but at your fathers place? A-Yes sir. I don't know exactly the distance it was to my fathers place,but it was down on what was called Long Creek,-it was seven or eight miles,-perhaps further,- or some thing like that.

Thia witness was in attendance two days and traveled forty eight miles,and was paid the sum of $7.80 by the plaintiff being $8.00 for per diem allowance and $4.00 mileage.

Counsel for the plain tiff annouce that the foregoing is all the evidence they propose to introduce at this time and place with the exception of Edward Partridge and some other witnesses who reside at Ogden in Utah Territory, but reserve the right to introduce other witnesses in case they see fit to do so on direct examination as well as rebuttal and hereby agree to waive all notice to be given to the

defendant, for the purpose of taking testimony on the part of the defendant and agree to proceed at once with the taking of testimony on behalf of the defendant.

John Taylor

Robert Weston

Isaac N Roberts

W^m McCoy

Thos Halley

Dr St Clair

Emily E R Young

John H Carlin

John Taylor

Ms d 1160 Box 1 fd 7

Depositions of witnesses taken in the above entitled cause on the I8th day of April I892,beginning at 2 o'clock P.M.,by agreement of the parties hereto,notice having been expressly waived,in the Grand Jury room in the court house in the city of Independence,Jackson County,Missouri,the parties hereto being represented personally and by counsels as is here-in-before,set forth,-

By Mr Southern,-"Mr Notary I see by the record of the testimony that was taken at Salt Lake City,under the Comission by which you were authorized to act as an examiner for that purpose; that upon the beginning of the taking of testimony on behalf defedants,that the folowing order was made upon the application of the plaintiffs,asking for the rule in relation to the exclusion of witnesses from the room where the testimony was being taken on behalf of the defendants,either here or in Salt Lake City,or else-where where testimony may hereafter be taken on the part of the defendants, Now the defendant suggests that that rule cannot be enforced,or should not be enforced against one party,without against the other one as well. I assume that the object of the entry was to show that after that time the intention was to enforce the rule as against all the parties,or witness for both parties,

By Mr K.L. Kelley,-"He asked to have it apply to all witnesses.-ours as well as yours".Is that what you ask now Mr Southern"?

By Mr Southern,-"Of course I do."

By The Notary,-"Upon the commencement of the taking of testi- by the defendants in Salt Lake City,the plaintiffs asked for a rule excluding the defendants witnesses from the room,and the defendants counsel at once stated that if the rule was to be enforced against the witness for the defendant that he would ask that it also be enforced against the witnesses for the plaintiff,which was agreed to,and the agreement was entered into in my presence that no witness should be all oweato remain in the room while the testimony of any other witness was being taken,and they were so instructed,and counsels agreed that they would notify their witnesswand keep them out of the room."

By Mr Kelley,-"That is just the way it was. Now let the record show that we consent to this rule in relation to our witnesses We do not desire that they should remain in the room,-although in this case we do not see that it makes any particular difference. Mr Briggs and Mr Nathan you will withdraw from the room. I would state though that we do not intend to use Mr Mriggs upon any point that this witness now on the stand will testify to,and we would like it if you would permit him to remain in the room".

By Mr Southern,-"We feel inclined to accomadate you Mr Briggs,and upon the statement of the counsels for the plaintiffs,the worthy bishop of the plaintiff church,we will permit you to remain in the room as we do not wish to dis-commode you unnecessarily.

Dr Charles Johnson of lawful age being produced,sworn and examined on the part of the plaintiffs,testified as follows,-

Direct examination by P.P Kelley,-

I Q-What is your name? A-Charles Johnson.

2 Q-Where do you live Mr Johnson. A-I live in South West City in this state.

3 Q-What county is that in,-in what county is South West City? A-It is in Mc Donald county in this state.

4 Q-How long have you lived there? A-Nine years.

5 Q-Where did you live before you went to South West City? A-In Richmond in Ray county over here.

6 Q-Is that in Missouri? A-I don't hear.You will have to speak loud and very distinctly for me to hear you.

Missouri A-Yes sir,it is in Ray County,Missouri,-the county seat

8 Q-How long did you live there in Richmond in Ray county? A-I lived there,-well I went ~~xxxxxx~~ to Richmond in '35 or '36,and I stayed there until'74,and then I went to Colorado for my health and stayed there six years,and then I came back to this section and went back to Richmond,and stayed there about fifteen months,and then I left Richmond and went down to Mc-Donald County,and have been there ever since.

9 Q-You mean you went to South West City in Mc Donald County? A-Yes sir.

10 Q-Did you ever at any time know the wife of Oliver Cowdery? A-Did I know her?

11 Q-Yes sir? A-Well I should think I did.

12 Q-When did you first become acquainted with her? A-In Richmond in Ray County.

13 Q-You misunderstood my question,-I asked you when you first became acquainted with her? A-In 1836.

14 Q-What relation are you to her,if any? A-She was my mother-in-law I should think I was acquainted with her and her daughter too. for I took care of her for twenty six years

15 Q-You married her daughter? A-Yes sir.

16 Q-And the daughter of Oliver Cowdery? A-That is what I understood

17 Q-What was the name of ~~her~~ the daughter you married? A-Marie Louise.

18 Q-Where were you married? A-In '56. I got acquainted with her in the spring,-in April I guess,and we were married in September of that year,-that same fall.

19 Q-With whom did your mother-in-law live from the time you married her daughter until she died? A-Old Dr Johnson(referring to witnessess' self), They lived with old Dr Johnson. They never were seperated a day in their lives,except that there was three days difference in their deaths. They lived with me from the day I married my wife,until they day they died,and my mother-in-law died three days before my wife died,and they never were seperated three days in all that time,and I took care of them myself(at this point in the taking of the testimony of this witness,the witness displayed a great deal of emotion,and had to suspend the giving of his testimony for a few minutes).

20 Q-Well they lived in your family,did they? A-You bet they did. Yes Sir they did,for I always took care of them all that time,-from the day I married my wife until they were seperated by death.

21 Q-Now I want to ask you another question Dr. I will ask you what other children of Oliver Cowdery were living at the time that you married Marie Louise? A-What other children were living at that time?

22 Q-Yes sir, what other children of Oliver Cowdery were living at the time you married his daughter Marie Louise? A-There were none.I never seen any nor heard of any.

23 Q-When did Mrs Oliver Cowdery die? A-The sixth day of January I think.

24 Q-Of what year? A-This year.

25 Q-1892? A-Yes sir'

26 Q-When did Marie Louise die? A-The 9th.

27 Q-The 9th day of January? A-Yes sir,the 9th day of January. 1892 the same month and just three days after her mother died.

28 Q-Marie Louise Johnson is the ~~xxxxxxx~~

Missouri A-Yes sir,it is in Ray County,Missouri,-the county seat

8 Q-How long did you live there in Richmond in Ray county? A-I lived there,-well I went xxxxxx to Richmond in '35 or '36,and I stayed there until'74,and then I went to Colorado for my health and stayed there six years,and then I came back to this section and went back to Richmond,and stayed there about fifteen months,and then I left Richmond and went down to McDonald County,and have been there ever since.

9 Q-You mean you went to South West City in Mc Donald County? A-Yes sir.

10 Q-Did you ever at any time know the wife of Oliver Cowdery? A-Did I know her?

11 Q-Yes sir? A-Well I should think I did.

12 Q-When did you first become acquainted with her? A-In Richmond in Ray County.

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25 Q-1892? A-Yes sir'

26 Q-When did Marie Louise die? A-The 9th.

27 Q-The 6th day of January? A-Yes sir,the 9th day of January. 1892 the same month and just three days after her mother died.

28 Q-Marie Louise Johnson is the xxxxxxxx

37 Q— What denomination, if any, do you belong to, Doctor? A — Me?
38 Q — Yes, sir? A — None at all.

formerly known as Marie louise ~~xxxxxx~~ Cowdery? A-Yes sir.
29 Q-And in later years known as Marie Louise Johnson?. A-Yes sir.
30 Q-She was your wife? A-Yes sir.
31 Q-I will ask you Dr Cowdery,-Dr JohnsonI mean,if Oliver Cowdery is living now? A-No sir I expect not. I believe I said he was dead but I don't know it for I did not see him dead,and so I can't say that he is dead,but I expect that he is dead,for I understand that he died ~~xxxxxxx~~five years before I married his daughter. I understood that he had been dead about that time when were married.
32 Q-Dr do you know of his death simply by conversations with his wife,your mother in law,and yourwife? A-How is that.
33 Q-You know of Oliver Cowdery's death simply by reason of conversations you have had with your wife and her mother,Oliver Cowdery's widow? A-Yes sir and hundreds of o her people. There is I suppose hundreds told me of his death.who knew he was dead There was old David Whitmer,you might say,for he was a man that was very well thought of,and he told me that he was dead,and he was a man that had every bod's respect.
34 Q-He told you that Olivery Cowdery was dead? A-Yes sir.
35 Q-I will ask you Dr Johnson if you were of the same religious faith as your wife and your mother-in law? A-No sir.
36 Q-You did not belong to the same religious faith as they belonged to? A-No sir,and I would be a better man if I had been,for I was not as good as they were.
37 Q-What denomination,if any,did you belong to it any time during the life time of your wife? A-None at all,and never did.
40 Q-That is all?
Cross-examination by Mr Southern,-
41 Q-Now Doctor you have been asked if you belonged to the same church that your wife,and your mother-in law belonged to? A-No sir I did not.
42 Q-And you say you did not belong to the same denomination they belonged to? A-No sir I don't belong to any church,and never did.
43 Q-You don't,and never did? A-No sir,I never did.
44 Q-Now to what church did your wife and mother-in-law belong?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,not the best evidence,and not cross-examination.
A-I can't tell you only from that they said,but then in the first place they belonged to what is called the Mormon church ,but they left that.
45 Q-That at first belonged to the Mormon church you say,and they left it? A-Yes sir,that is what I understood.
46 Q-They left the Mormon Church? A-I don't think when they died that they belonged to any church at all,but their belief I believe was with the Latter Day Saints. I don't know what you would call it for we did not talk much about it betwixt ourselves,for I let my wife believe as she had a like to and she did me the same and we got along all right,for we did not live by quarreling,or fighting,we lived peacably.
47 Q-Did you ever meet with either of these gentlemen(referring to .E.L. Kelley and P.P Kelley)before you came here to-day?
A-Which gentlemen?
48 Q-Either of the Mr Kelley's? A-Yes sir I met that one yonder.

(witness refers to Mr E.L. Kelley)

49 Q-Did you ever see the other one? A-No sir,I met that gentleman (Mr P.P.Kelley)for the first time last night.

50 Q-Which one has been to your house? A-The further one(Mr E.L.Kelley)

5I Q-He has been to your house? A-Yes sir,he was there once.

52 Q-When was he there? A-I can't tell you that exactly,but it was a year or two agao,-it has been some time ago.but I can't say exactly when it was.

532 Q-Well about when was he at your place? A-I say it was a year, perhaps two years ago,-I think about that long ago. I don't recollect just what time it was,for I never paid much attention to it,only I think it was about two years ago. Maybe it wasn't quite that long ago.

54 Q-Are you,or were your wife and mother-in-law any relation to him? A-To who?

55 Q-To Mr Kelley? A-No sir, Oh no,no relation at all that I know anything of.

56 Q-What was the purpose of the meeting? A-Of his coming there?

57 Q-Yes sir,what was the object and purpose of Mr Kelley's visit to your place? **

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that is immeterial.

A-How?

58 Q-What was the purpose of their meeting? A-You sit up here and tell me what he says(speaking to Mr P.P Kelley whom witness desires to repeat the questions to the witness,for the reason as the witness states he is deaf and cannot hear the question propounded by counsel for the defendant)

A-I can't hear what you say?

59 Q-Well I will try and ask my questions so that you can hear them, and I don't want Mr Kelley to help you,-we can probably get along without him? I asked you what was the purpose of Mr Kelley's visit? A-He was therefor the purpose ofbuying a quit claim deed to the temple lot.

60 Q-What temple lot? A-What is called the temple lot here in Independence. I never saw it,but it is what is called the temple lot here in Independence.

61 Q-Well did he buy it? **

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial.

A-Yes sir.

62 Q-You gave him a deed to it? A-Yes sir,we gave him a quit-claim deed to it.

63 Q-Well did he buy it? A-Yes sir.

64 Q-From whom did he buy it? A-From me and my wife. He got a deed to it from us.

65 Q-What was the consideration for that deed? A-He gave me one hundred dollars for it,-for that deed we gave him.

66 Q-Was ther any other consideration? A-Yes sir,a little.

67 Q-Well what was the other consideration in addition to the hundred dollars?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not cross-examination.

68 Q-Now you said there was another consideration? A-Yes sir,-

69 Q-Well what was that consideration? A-Well I considered that my has or had an interest in a large amount of prpoerty,-in a great deal of property here in this section of country,and he was to go on and settle it,and see how it came out you know.

70 Q-He was to go on and settle it? A-Yes sir.

71 Q-How was he to go on and settle it?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent,irrelevant and immeterial,and not proper cross-examination.

A-I don't know for I have paid no attention to it,but I suppose it would have to go through court. I hardly know how it was for you know I haven't heard hardly from it at all until lately.

72 Q-How was the quit-claim deed which he ~~xxxxxx~~ obtained from yourself and your wife to settle your other property interests at Independence?

Counsel for the plaintiff objects to the question asked the witness for thex reason and on the grounds that it is irrelevant and immeterial and not cross-examination.

A-Well I looked at ir this way,-if that was settled it would settle it all for it was the hull thing,-it was all the same, and if this was settled it would settle the whole thing at once. That was the way I lookedat it.

73 Q-How much did you quit-claim at that time? A-I only gave him a quit claim deed to two acres or thereabouts.

74 Q-Now how would a quit claim deed to two acres or thereabouts settle your property interests in this county? A-Well I don't know I can't say for I am no lawyer,-I am a doctor and know more about medicine than I do about law. I only spoke that way,and I don't know that I meant any thing in particular by what I said.

75 Q-Wellwhat I want to know is how that would settle other property interests which you and your wife had here in Independence?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevat and immeterial and not cross-examination,and calls for a legal opinion of the witness.

A-Well now let me do a little talking. I would like to talk a little bit if you will'let me. I am no lawyer as I said before,for I can make pills better than I can write,and I don't know just how that was,-

76 Q-Well go ahead and tell your story? A-Well I owned a great deal of property,-

By Mr P.P. Kelley,-

77 Q-Just answer his question Dr, Let the reporter read the question to you,and answer it. Let the record show that the attorney for the plaintiff insists upon the ~~xxxxxxxxx~~ witness answering the question asked him and nothing ~~xxxxx~~else?

By Mr Southern,-

78 Q-Go on Dr and answer the question. Mr Notary take down the attorney for the plaintiff's direction to the witness,and you can repeat the question to the witness?(the following question was repeated to the witness)"Well what I want is how that would settle other property interests,which you andyour wife had here in Independence? Do you understand that question? A-I think so.

79 Q-Well then go ahead and answer it? A-Well supposing there was sixty or seventy acres all in that one thing. What I was goingto say was I have a hull block in that town there,-that is here,-and when we got the abstract of the title,one man wanted an abstract and undertook to get it forone lot out of thexwhole block,and

82 Q-It looked that way to you? A- yes, sir. 1

80 Q-What is that? A-One man got a deed for one lot and he had to get an abstract for it,and when the abstract came it covered the hull thing you see,-that is the abstract covers all of it.

81 Q-Now then listen to my question Doctor,-is this what you mean,- Is this what you mean,-that if the Re-organizedchurch of Jesus Christ of Latter Day Saints,or Mr Kelley the bishop of that organization,or any other agent of the re organized church, should be able to recover the two acres of the ground that you quit claimed to them,known as the "temple lot",then you expect that will vindicate yourtitle to the whole seventy acres?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is incompetent,irrelevant and immeterial,not proper cross-examination,and calls for an opinion of the witness.

A-That is the way I looked at it,but as I said I am no lawyer but it looked that way to me.

83 Q-Was that a part of the considereation for the deed that you made to them? A-He was just to go on and go through with it,but there was nothing said about that part of it,or anything further than that,but what steps he would take to recover this property would have a tendency to be in my favor you know, That is all I know about it.

84 Q-And you accepted that as a part of the consideration for the deed?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immeterial,not cross-examination.

A-Yes sir.

85 Q-In this consideration Doctor of which you have spoken,did you include in your own mind,any other land,except the seventy acres? A-Yes sir.

86 Q-Did you include some other land? A-Yes sir.

87 Q-Of which the temple lot is a part?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is in competent,irrelevant and immeterial,and not cross examination,and calls for an opinion of the witness.

A-Yes sir.

88 Q-How much more? A-A good deal more.

89 Q-A good deal more land? A-Yes sir.

90 Q-Where does that land lie?. A-I can't tell you that,-

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and is not cross examination.

91 Q-Where does that land lie doctor? A-I said I cannot tell you but some of it is here in Jackson County all the same.

92 Q-It is in Jackson County "all the same"? A-Yes sir.

93 Q-A large body of land not far from Kansas City? A-Yes sir.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,not cross-examination.

94 Q-Dr Johnson were you and your wife apprised of the fact that you had any title to the property of which you were asked to make a quit claim deed, and the other property referred to,before you saw Mr Kelley? A-Yes sir. A good deal before that we knew of it

99 Q-Now Doctor, was any of it in Ray County? A-No Sir, I never got, &c.

95 Q-You knew of that before the time you were asked for this quit claim deed to the temple lot,or the piece of ground here that is referred to as the temple lot? A-Yes sir,a good while before that,and we received pay for quit claim deeds to some of it too. That was outside of this.

96 Q-Was that property in Jackson County,or in Ray county,for which you received pay? A-In Jackson county,not very far from here.

97 Q-It was in Jackson County? A-Yes sir.

98 Q-And you are sure of that? A-I am sir, I never got anything from Ray county, although there was said to be considerable of it in Caldwell County.

100 Q-But you never received any pay,-any way,-for quit claim deeds on any such property in any other county than in Jackson county? A-No sir,not a bit. Not any Nary a dollar.

101 Q-Doctor when did you discover that your family had any rights in real property here in Independence,or in Jackson County? A-I expect it has been thirty years. There has been lots of lawyers tried to get me to let them take hold of it,and work it for me,but I had enough to eat and so I did not bother it.

102 Q-Then Doctor it is a fact that when the opportunity presented itself for the plaintiffs,the re-organized church of Jesus Christ of Latter Day Saints,to work it for you,you did not object to their doing so? Is that not the fact Doctor? A-Well it was before anything of this ever came up that they were after me for it. When this first came up there was nothing in the church about it.

103 Q-What do you mean by that? A-I mean that it came in the first place by lawyers in Kansas City. They were after me to let them do something with our property here,and I did not want to do any thing,and would not have done anything about it if they had not urged it on me in the first place,-and it took a good deal of urging to get me to do anything too. There was nothing about the church at all when I got hold of it first,-not a bit of the church in it at all.

104 Q-Though it is a fact,is it not Doctor that you were glad of the opportunity of getting some body to work it out for you? Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immaterial,and not cross-examination,and calling for an opinion of the witness. A-Well I don't care much about that either way.

105 Q-But it was a part of the consideration that caused you to sign the quit claim deed was it? Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial and not cross examination. A-How is that?

106 Q-It was never-the-less a part of the consideration that caused you to sign the quit claim deed? A-Yes sir,it was a part of it.

107 Q-Did you Doctor,-did you or your wife ever see any deed to you and her,or anybody to that property,-the property in question? Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial and not cross-examination A-No sir.

108 Q-Are you now in possession of her effects? A-Yes sir. Counsel for the plaintiff objects to the question for the reason and

on the ground that it is immeterial and not cross-examination
A-Certainly I am. Who should be but me?

109 Q-Is there any deed amongst her effects for any property here in Jackson County?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immeterial and not cross examination.

A-Not that I know anything about.

By Mr P.P. Kelley,-"Let me make another objection,-there is no claim or pretence on the part of the plaintiffs in this case,that either Dr Johnson or Marie Louise Johnson,his wife,ever received a deed for the property in controversy in this case from anybody excepting Mrs Oliver Cowdery,but that title that is claimed by the plaintiffs is through inheritance only".

A- I did not hear that,for I am very hard of hearing,and it is very awkward for me to be so I assure you.

110 Q-I did not ask you a question doctor,-I was simply formulating an objection that was all. Now I want to ask you Doctor a question,and it is to the effect if there is any agreement, between you and E.L. Kelley,or was at the time this deed was given by which he agreed to settle the interests of yourself and wife in any property in Jackson County? A-No sir,not a bit in the world. I could tell you something,-well I have answered what you asked me,and if you ask me more I will answer that.

111 Q-Yes sir,answer only what I ask you. That is right. Now Doctor I will askxyou if it is not a fact that Mrs Oliver Cowdery from the time you first knew her,up to the time of her death,when reference was made to it at all,claimed that this particular piece of property was church property,-what,if any thing did she say in reference to that?

By Mr Southern,-"I object to that because it is hearsay testimony, and further because it is immeterial and irrelevant",

A-What is the question?

112 Q-I asked you doctor if it was not a fact that ar all times before her death when Mrs Oliver Cowdery would refer to this partic-ular piece of property,-whether or not she would refer to it as church prpoerty. What did she say in reference to that? No I will waive that question Mr reporter,and ask the doctor this question,-what if anything,Mrs Cowdery said to you at the time of the execution of this deed by yourself and Marie Louise Cowdery her daughter,and your wife,-I should say Marie Louise Johnson,as to the nature of the property here in Independence about its being church property or the latter?

A-I never heard her say anything about it,nor never heard it mentioned as church property or anything of the kind. The fact is that there xxxx was very little went betwixt us about these things for many years,but after these men began to come there to see me you know,a long time ago,and said that Oliver Cowdery owned a great deal of property in Jackson County,and some in Caldwell,and some in Ray county up there, and this man that told us this wanted to take the matter up you know and see what was in it,but I just laughedxat him,for I was no thief you know,so I just paid no attention to it you know.

113 Q-Well thendo you mean Doctor that by the consideration between you and E.L. Kelley xxxx

I14 Q-Now on your cross-examination doctor you said it was about two years ago that E.L. Kelley was down at your place? A-Yes sir I think it was about that long ago,but I don't say/it was that time postively. I think it was about that time,but I may bex mistaken about it. It is all guess work with me as to the length of time ago it was that he was done there,for I declare I cannot recollect when it was.

I15 Q-Well now I will ask you if it was the time ~~xxxx

get an abstract of title to that property,or have a lawyer look into it? A-No sir not that long ago.

130 Q-Well how long ago was it? A-Well I guess it was five or six years ago.

Re-cross examination by Mr Southern,-

131 Q-I have another question to ask for an explanation merely. Now Doctor when in your testimony you have spoken of this particular piece of property,-what property do you refer to? A-I refer to the temple lot.

132 Q-You mean the temple lot? A-Yes sir,I mean the temple lot,-what is called the "temple lot"here in.Independence. Now that Is what I mean but I want you to understand that I don't know anything about it on earth.

133 Q-Do you mean by the temple lot,the two acres ot thereabouts which you quit-claimed,or do you mean the seventy odd acres of which it is a part? A-I mean the two acres.

134 Q-When you speak of the temple lot you refer to the two acres? A-Yes sir.

135 Q-Now then when you speak of the other property in the same tract of which it is a part,do you mean property covered by the same ded? A-Yes sir.

In accordance with the stipulation of record herein,as here-in-before set forth,and hereinafter certified,the signature of the foregoing ~~xikxxxxxx foregoing~~ named witness to his testimony was waived.

Witness fees amounting to $24.50 paid by plaintiffs,-viz,-200 miles travel from residence and 3 days attendance as a witness,

E.C. Briggs of lawful age being produced,sworn and examined on the part of the plaintiff,testified as follows,-

Direct examination by Mr P.P. Kelley,-

1 Q-Where do you live Mr Briggs? A-At Shenandoah,Iowa.

2 Q-How old are you? AI am fifty seven years old.

3 Q-When did you first become acquainted with the doctrine of the Latter Day Saints? A-In 1842.

4 Q-Where were you living then? A-In Wisconsin.

5 Q-At what place in Wisconsin? A-At Beloit.

6 Q-I will ask you if you are acquainted with the steps that were taken,and with the principal men that were engaged in taking the steps that finally led up to the reorganization of the church,~~and xikxkxxxxxxxxxxx~~

Counsel for the defendants objects to the question asked the witness for the reason and on the ground that it is leading.

A-What is the question?

7 Q-I asked you if you were acquainted with the steps that were taken that led up to the re-organization of the church,and with the leading men that were connected with that re-organization? A-Yes sir.

8 Q-You were acquainted with that transaction,and the steps leading up to it,and the principal men concernnd in it? A-Yes sir I was and am to-day.

9 Q-When did this re-organization,if there was a re-organization,-take place,Mr Briggs? A-It commenced in'51.

10 Q-Where and at what place? A-Beloit,Wisconsin.

11 Q-Who were the principal movers in the movement? A-Jason W. Briggs was the first one.

12 Q-Name any others that you can think of? A-And David Powell,and in that particular place John Harrington.

13 Q-To what church did J.W. Briggs belong to prior to that time?

A-He belonged to what was known as the "Latter Day Saints",
I4 Q-To the church or to the organization that was established in I830 or I832? A-It was in I830.
Counsel for the defendants objects to the question asked the witness and all of them on the ground that "they are leading".
I5 Q-Well which church was it Mr Briggs, and when organized, and when disorganized, if ever it was disorganized? A-The church which he belonged to was the church of Jesus Christ of Latter Day Saints organized in April I830 April 6th I830.
I6 Q-When was that church disorganized, if ever it was disorganized? It was disorganized in I842,-I844, I mean to say.
I7 Q-What office did he hold in that church prior to I844 A-The office of an elder.
I8 Q-What is the fact about Harrington and Powell belonging to the same church originally that Jason W Briggs belonged to? A-Powell did but I don't know whether Harrington did or not. I know that Powell did, but as to Harrington I cannot say, for I don't know when he joined the church, I don't know anything about that but I think that he joined right there in Beloit,-yes sir I am quite sure that he did.
I9 Q-That Harrington joined there in Beloit? A-Yes sir.
20 Q-Who else of the chief movers, or parties who participated in the re-organization in I85I or '52, who belonged to that old original church established in I830, and who were members of it before its dis-organization in I844? Now if you know who they were you may state it,-either there at Beloit or any where else? A-Well John Williams was one there at Beloit.
2I Q-And any others that you can think of? A-My mother Polly Briggs was one of them. My mother Polly Briggs and my sister Mary Stiles.
22 Q-And any others? A- There certainly were others,-the whole branch in fact that was there, and I don't as a matter of fact know how many members of the church there was there at that time, I cannot tell that but all that were members there and belonged to that branch went into the re-organization. I cannot remember their names or their numbers, but those names I have given you I do remember distinctly.
23 Q-What do you know if anything about Zerus H. Gurley taking part in the movement? A-I know that he took part in the movement along in the winter of '5I and '2.
24 Q-What do you now if anything about a man by the name of Marks taking part in the movement, if at all? A-How is that?
25 Q-I asked you to state if you knew anything about a man by the name of Marks taking part in the movement that you speak of that led up to the re-organization of the church? A-Yes sir he took part in it, but that was later, It was not right at this time that he was identified with the movement.
26 Q-What do you know Mr Briggs about the branch of the church,-what is known as the original church that was established at Beloit or near Beloit, during the life time of Joseph Smith? A-I know there was a branch organization of the church there, and my b other Jason was the Presiding Elder of that ~~church.~~ branch.
27 Q-That is your brother Jason W. Briggs was the Presiding Elder of the branch there at Beloit that was organized under the old church prior to the death of Joseph Smith? A-Yes sir.
28 Q-What do you know about that branch retaining its organization from the death of Joseph Smith in I844 up to the time of the commencement of the re-organization in I85I?

Counsel for the defendant objects to the question asked the witness on thexground and for the reason that the same is leading and immeterial.

29 Q-If you know anything upon that subject,you may state it?
A-Well I know there was a branch of the church there,but I was not a member of it,hence I could not enter into the dexk-tails in relation to that. I simply know there was a branch there,and that is all I kxxxx can say in regard to that,as I was not a member of it.

30 Q-Now you may state Mr Briggs what steps were taken looking towards a re-organization of the church,- if any steps were taken,- tell what was done if you know in that respect,-that is with reference to the steps that were taken looking to a re-rgan_ization or the church? Tell what was done if you know,and upon what basis they re-organized the church? A-The first subject or matter that introduced the re-organization,was a purported revelation given in I851, and the idea affirmed in the revelation was that in due time the Lord would call upon the legal successor of Joseph Smith to assume the Pres-idency of the church,-that is that the Lord would call his successor to the Presidency of the church,and commanding the Saints there to establish their altars,and xy say the Lord would send a deliverer in the person of his son,-the son of the martyr.

31 Q-Well was there any conference held? A-Yes sir.

32 Q-There was a conference held? A-Yes sir.

33 Q-When, in what year? A-In I852. There was a conference held in xxxxx '52.

34 Q-Where? A-At that place.

35 Q-At what place,-what was the name of the place?A-AtBeloit, Wiscon-sin.

36 Q-Who was present and took part in that conference? A-Jason W, Briggs,Silas Briggs,-and I forgot to mention who,-he was associated with them there,-

37 Q-Who was Silas Briggs? A-He was my oldest brother.

38 Q-Well who else was associated at that conference? A-There was Zenas H.Gurley,-I can't remember all of them,-

37 Q-Well was there any others that you can recollect? A-There was David Powell and Harrington and others. There was quite a large assemblage but I do not recollect their names,but I rem-ember that Elder Powell was there also,and William Hartshorn was there also.

38 Q-Was William Marks there also? A-No sir.

39 Q-What is the fact now,Mr Briggs about these parties holding con-ferences regularly from that time on? A-Well they have held regular conferences from that time on to the present. They have held conferences regularly ever since.

40 Q-Have you as a rule attended these conferences so held? A-Yes sir,a great many of them,but that was the first conference I ever attended.

41 Q-And that was in I852? A-Yes sir.

42 Q-About what proportion of the conferencesheld since that time have you attended? A-Why generally when I have been so I could attend them I have been there. Some of the time I have been on a mission. I was gone at one time nearly three years since that time,and of course during that period I did not attend any of them but whenever it has been convient I have attended them,-that Is I have attended the Conferences.

43 Q-I will ask you Mr Briggs,what laws,if any,formed the basis of the re-organizatiom effected in I852?
Counsel for the defendants objects to the question asked the witness

on the ground an for the reason that it calls for testimony from this witness regarding that of which there is written and better evidence,and because it calls for an opinion of the witness who has not been shown to be competent to testify

44 Q-And also from I85I to '52? A-How is that?

45 Q-What laws if any,what doctrines,rules and regulations,if any, were adopted and practiced as the faith of the church in I852 ,and also in I850 and '5I,as a basis of organization? A-It was the doctrine based upon the bible,the book of Mormon,and the book of covenants, whic was adopted as the rules of action,estab ished in the year I830 in the original church,and it claimed to be a reorganization of the church which had been dis-organized.

46 Q-I will ask you if the basis of the church,-the basis adopted by the church at that time,has ever been changed since that time A-No sir. It was understood there at that time,and recognized that any bodywho had ever united to the church,or with the church and had not been expelled or dis-fellowshipped from the church,still belonged to the church,and that was the only test that was required when they joined the re-organization.

By Mr Southern,-"We object to that question and to the answer of the witness for the reason that it calls for an opinion of the witness who has not been shown to be an expert,and on the further ground that the answer is not in response to the question,and ask that it be stricken out fathat reason". And we also object to it because there is better testimony".

47 Q-What position do you hold in the Re-organized churchof Jesus Christ of Latter Day Saints Mr Briggs? A-At the present time

48 Q-Yessir? A-I am a travelling,presiding elder.

49 Q-How long have you held that position? A-Since '60.

50 Q-To what quorom do you belong? A-I belong to the,-

By Mr Southern,-"That question is objected to because it is leading".

By Mr P.P. Kelley,-

51 Q-If any,-to what quorom do you belong Mr Briggs,if any? A-It is known as the quorom of the Twelve Apostles.

52 Q-And you have held that position since I860? A-Yes sir.

53 Q-How long have you been a minister in that church? A-How long have I been a minister?

54 Q-Yes sir? A-Since '52.

55 Q-You have been aminister in the Re-organized Church of Jesus Christ of Latter Day Saints since I852? A-Yes sir.

56 Q-Have you been in the active ministry of the church since I852 up to the present time? A-No sir. I took my first active mission in '56.

57 Q-Well,since I856 have you been in the active ministry? A-Yes sir, most of the time I have been.

58 Q-Where have you labored in the active ministry of the church? A-Well sir I have labored in about thirty five states and territories. I have labored in the United States,Canada and Nova Scotia,-perhaps I have not been in as many as I have stated,but I have been in the work from one side of the conti-nent to the other.

59 Q-Now Mr Briggs I will ask you to name as many parties that belonged to the organization,-the first organization of the church, that afterwards identified themselves with what is known as the re-organization,early in its history,and who took part in its conferences,as you can? A-Well I don't know as I could tell you that. A great many did though,-there was hundreds anyway and perhaps thousands.

By Mr Southern,-"I make my objection as soon as I get an opportunity,but this witness is so prompt at answering that it seems I have to wait until after he has completed his answer before I can get a chance to put in my objection to the question. That question and answer are objected to for the reason that the records of the conferences are the best evidence of the fact".

60 Q-I will ask you if you recollect a man by the name of Newberry at the first conference that was held at Beloit in I852?
A-I do not know whether he was there or not. I was acquainted ~~mr mrk~~ with some Newberrys for there was several of them there. I do not remember whether the man you mention was there or not,but he may have been there.

61 Q-Do you remember of such a man being connected with the church at that time? A-I could not say whether he was or not. As I have stated I was acquainted with Newberrys,for there was several of them there that were members. I remember that,but I can't say whether he was at the first conference or not.

62 Q-Did you know a party by the name of H.P. Deam? A-Yes sir,I was acquainted with him.

63 Q-Was he there at the first conference? A-No sir he was not there He wrote a letter there,but I don't think he was there at that conference personally.

64 Q-What do you know about his being identified with the movement?
A-I know he was very intimately connected with it,or engaged in itlater on.

65 Q-What position,if any,did he hold in the church? A-He was an high priest.

66 Q-~~The office of an high priest? A-Yes sir.~~ What position did he
~~67~~ 67 hold in the original church,if you know? A-That was the office he held.

67 Q-The office of an high priest? A-Yes sir.

68 Q-Do you know about the time that William Marks became identified with what was known as the re-organization? A-I don't think I remember of his being identified with it until about '57.

69 Q-He did become identified with the movement? A-Yes sir,but I think it was about '57.

~~70~~ 70 Q-Do you know what position he held in the original church?
A-He was an high priest,and President of the high council in Nauvoo of the Stake there,I think he was at one time.

71 Q-Were you present at the conference of the Re-organized church held in I860 A-In '60?

72 Q-Yes sir. A-Yes sir.

73 Q-Whwre was that conference held? A-At Amboy.

74 Q-In what state? A-In Illinois.

75 Q-Well at that conference held at Amboy,Illinois,in I860,what further steps were taken,if any,looking towards the further reorganization of the church? A-The most noted one was the ordaining of Joseph Smith to the Presidency of the high priesthood.

76 Q-Was there any other chief officers called at that conference?
A-Yes sir,the bishop of the church was called that spring.

77 Q-Who was that? A-Bishop I.L. Rogers.

78 Q-Well what other principal officers,if any, were called?
A-The seven Presidents of the Seventies were chosen,and I was chosen that time President of the seventies.

79 Q-Was there any others you can think of? A-I am not certain,but I think the stand High Council was chosen, I think so. I don't remember,but I think they were.

~~80~~ 80 Q-I will ask you Mr Briggs if you were acquainted with the doctrin
-es

and teachings and teneta if you were acquainted with the doctrines,teachings and tenets of the old original church of Jesus Christ of Latter Day Saints,organized in I830? A-Yes sir.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that there is better testimony to be found on that question,and because there is nothing showing the witness to be an expert on the question of doctrine from I830 forward".

81 Q-I will ask you if you are and were acquainted with the docirines, teachings and tenets of the Re-organized church of Jesus Christ of Latter Day Saints? A-Yes sir.

82 Q-I will ask you what difference there is,if any,in the doctrines, teachings and tenets of the Re-organized church of Jesus Christ ofLatter Day Saints,and the original church of Jesus Christ of Latter Day Saints,established in I832,-organized in I832,-'30 I mean? A-There is not any difference,-they are identically the same in every tenet and principle.

83 Q-Now to refresh your recollection I will ask you,if at the conference of I860 there was a Counsellor appointed to the President of the church? A-A Counsellor?

84 Q-Yes sir,-a first Counsellor? A-I don't think there was.

85 Q-I will ask you if you know when he was appointed? A- Ithink he was appointed in the fall,at the fall conference. That is when I think he was appointed,-at least that is my recollection of it now. I wouldn't say for certain though.

86 Q-Who was that person? A-William Marks.

87 Q-Was that the same William Marks who prior to the death of Joseph Smith had been President of the High Council at Nauvoo,and President of the Stake at Nauvoo? A-Yes sir,it was the same man.

88 Q-Who was the Presiding officer of the Conference held at Amboy, Illinois,in I860? A-Z.H. Gurley.

89 A-Senior? A-Yes sir,Zenas H. Gurley,senior.

90 Q-What office didhe hold? A-He was one of the twelve Apostles.

91 Q-That is all. You may cross-examine.

Cross-examination by Mr Southern,-

92 Q-What is your age Mr Briggs? A-Fifty seven.

93 Q-When were you born? A-In February.

94 Q-In February of what year? A-I835.

95 Q-You were born in February I835? A-Yes sir,that is the date of my birth according to the bible record of my birth that I have in my house.

96 Q-If you were born in I835,how does it come that you know what occured with reference to the doings of the Latter Day Saints from I830 to I835? A-By the record of the church.

97 Q-By the record of the church? A-Yes sir. The record and the teachings.

98 Q-What do you mean by the record of the church? A-That which was taught by the Church of Jesus Christ of Latter Day Saints,and which is recorded in their standard works.

99 Q-Recorded in their standard works? A-Yes sir.

I00 Q-Did you ever see any of the records of the church? A-I have seen them so far as they have been published. I have seen and re d the history of the life of Joseph Smith,published during his life time.

I0I Q-Did you ever see the records of the church in those days? A-I have seen them in so far as they have been published.

I02 Q-Did you ever see the records of the church from I835 up to I844 A-I have far as his diary is published.

I03 Q-Whose diary? A-Mr Smith's.
I04 Q-What Mr Smith do you refer to? A-Joseph Smith.
I05 Q-Joseph Smith the founder of the church,-is he the one you refer to? A-Yes sir,Joseph Smith,the founder and prophet of the church.
I06 Q-That ~~x~~ is the older Joseph? A-Yes sir,Joseph Smith,the founder of the church,and its prophet,seer and revelator in the early days during the existence of the original church before its dis-organization. We call him the prophet,seer and revelator.
I07 Q-Did you ever see his diary? A-I saw it as it was published.
I08 Q-As it was published you saw it? A-Yes sir.
I09 Q-How do you know the publication you saw was a correct copy of his diary? A-Well during a part of the timeof its publication he was the editor of the paper in which it was published
II0 Q-Would that make it a correct copy? A-Yes sir,I should think so. As far as we knew it was correct.
III Q-As far as you knew it was correct you say? A-Yes sir,we did not know anything to the contrary.
II2 Q-Well then you saw what purported to be his diary did you not? A-Yes sir,I saw a publication of what purported to be his diary,and as a part of it was published during his life time in a publication or periodical of which he was the editor it is more than probable that the publication was correct.
II3 Q-Is that all you have seen with reference to the records of the church? A-Sir?
II4 Q-Is that all you have seen with reference to the records of the church? A-Yes sir,what was said to be published by him,-it ~~x~~ was his personal diary that I saw published,and then the other matters that was published purporting to be the records of the church,such is the minutes of Conferences,etc.
II5 Q-You say his personal diary? A-Yes sir,and other matter that came from him personally?
II6 Q-You say "from him personally". What do you mean by that? A-It was from him personally so far as that is concerned.
II7 Q-You refer to Joseph Smith in that answer? A-Yes sir.
II8 Q-Well,how old were you when he was killed? A-I was in my eight year. He was killed in June,and I was born in February,-No I was older than that. I was in my tenth year.
II9 Q-Had you at that time ever seen him personally? A-No sir.
I20 Q-Then how can you know anything from him personally,if you never saw him? A-I did not mean in the sense of receiving what I have stated in a personal communication from him,but I meant from his writings and teachings. He published a paper,-the Times & Seasons that is during a part of the time he was the editor of that publication and exercised a general supervision over it. We took that paper.
I21 Q-You took that paper at what time during his life? A-From the time I first.heard of his doctrine until the time of his death,but I was only a child then you know,but not withstanding that fact I took a great deal of interest in things.
I22 Q-When did you first hear of his doctrine? A-It was in I842.
I23 Q-You were about seven years old then? A-Yes sir. I was in my eight year at that time.
I24 Q-Did you read his paper then? A-Well partially,-not very much I heard it read more than I read it myself.
I25 Q-From what you heard of it,and read in it,do you remeber now the doctrines of the church? A-Yes sir to some extent,-it was

it now sir.

I26 Q-As I understand it you were speaking of your knowledge derived from what you read and heard read in a paper published by Joseph Smith? A-Yes sir.

I27 Q-You were taking that paper? A-Yes sir,wexwere taking his paper the same as you take papers now in your family.

I28 Q-What paper was it he pxbkixxbxx?was publishing? A-The Times & Seasons at that time.

I29 Q-Was he the only editor of the publication? A-No sir.

I 30 Q-He was the only editor? A-No sir.

I 31 Q-Then how do you know what was published in here was from Joseph Smith? A-He was the editor,or one of the editors,and it purported to be from him,and the assumption is that it was.

I32 Q-Answer the question,-how do you know what was published in there was from Joseph Smith,-might it not have been from some body else? A-Well in every paper there was what purported to be the history of Joseph Smith,and I was very much interested in it. I did not read it myself,but somebody else did,and I was very sure to hear every particle of it myself when it would be read,for as M I said before I was very much interested in it.

I33 Q-Now you say you were very much interexted in this history of the life of Joseph Smith? A-Yes sir I was very much interested in it,and I wanted to hear it all,and did hear all that was possible during that time.

I34 Q-Now did you get the information about which you speak from artic-icles written by Joseph Smith,or were they written by somebody else? A-Well it was he wrote,or authorized to be writ-ten,-the reports of the church. The elders of the church,-

I35 Q-And it is from such reading and hearing as that that youbase your testimony upon? A-Yes sir.

I36 Q-It is from these scources that you obtained your knowledge of the principles taught by the church durin? that time? A-Yes sir.

I37 Q-Principally from the Times & Seasons? A-Yes sir.

I38 Q-Was that newspaper,the Times & Seasons an inspired paper or publication? A-No sir.

I39 Q-What is that? A-No sir.

I 40 Q-It was not an inspired newspaper,or publication? A-No sir,I do not so understand it,but there were things in it that were undoubtedly inspired,but not the whole of its contents.

I41 Q-There was no claim then,-there was no claim,using a modern term, of "inerrency"in that paper? A-No sir.

I42 Q-No claim made on,behalf of that paper of its inspiration as you make for the bible or the book of Mormon? A-No sir.

I43 Q-There was no claim of that kind,and is no claim of that kind not madeby you? A-No sir,but there was interspersed in it revelations from Joseph Smith,or that were made through him,that we claim were inspired.

I44 Q-Well there was no claim made on behalf of that paper that it was inspired or an authoriry in the sense that the claim in that respect was made on behalf of the bible and the book of Mormon or the book of doctrine and covenants? A-No sir. Im that was his history,and the record of account of his giving revelations,or the circumstances under which revelations were rxx received,and the history generally of his revelations.

I45 Q-I believe you said there was revelations published in that paper A-Yes sir. And the history of the time in which they were given,and the circumstances surrounding them.

I46 Q-They were published in thexTimes and Seasons? A-Yes sir.
I47 Q-The revelations were? A-Yes sir,but not in the Times & Seasons alone,for they were published in other publications and periodicals o the church at different places,
I48 Q-You do not pretend to remember beyond I840? A-Well I842 is perhaps the time of my best knowledge of it,and after that time on up to the time of the prophets death?
I49 Q-That would be I842,'43 and'44? A-Yes sir.
I50 Q-And it was from your readings during those years that you formedthe conclusions which you state? A-Yes sir. reading and hearing.
I5I Q-"Hearing",-did you say that? A-Yes sir,-I try to speak distinctly.
I52 Q-Pardon me I did not mean to leave out the word "hearing" and I was a little in doubt as to what you said? You speak distinct-ly? A-Yes sir,I try to.
I53 Q-So then when it comes down to it,what you heard and read in that paper,you take that to be the truth in regard to the doctrines and customs of the church at that time,do you,-you take it from a paper of which you speak called the "Times and Seasons and which was edited by various parties whom you do not know, and for whose accuracy and truth youw ould not vouch? Is that not a fact? A-There was an auxiliary to what I read and heard read from these papers,that I also took into consideration.
I54 Q-Well what was that? A-That was the standard works of the church
I55 Q-Well what is your answer to my former question,-not the last one ,but the one before the last? ~~A-That was the standard works of the church.~~ A-What was the question
I56 Q-So then when it comes down to it,what you heard and read in that paper,you took that to be the truth in regard to the doctrines and customs of the church at that time do you,-you take it from a paper of which you speak,called the "Times & Seasons", and which was edited by various parties,whom you do not,and did not know,and for whose accuracy and truth you could not vouch? Is that not a fact? A-Those were,-
I57 Q-Answer the question,and the answer is "yes",or "no",to that? A-I say there was an auxiliary to that that was a help. The standard works and the scriptures they were expounding,-they were expounding these works in that paper in these writings.
I58 Q-It not only expounded the scriptures,but did it expound anything else besides the scriptures? A-It was what was called a religious paper,and gave a history of the occurences that took place in the church.
I59 Q-Now I believe,-Elder is your title is it not? A-Yes sir.
I60 Q-Pardon me for inquiring sir,for I wanted to know,so as to know how to address you? A-Well that is all right.
I6I Q-Was there anything in that ppaer,-published in that paper that was authoritive and binding upon the church? A-Yes sir.
I62 Q-What were they? A-The revelations and resolutions of the Conferences,so far as Conferencex resolutions were authority gover ning the church.
I63 Q-When as you remember it were those conferences held from which those resolutions you refer to came? A-They were held semi-annually then Annually and semi-annually.
I64 Q-Between what time? A-When.
I65 Q-Between that time,and what time? A-Do you mean ~~any~~ any acquaintance with it?
I66 Q-Yes sir,-between the time you speak of reading those articles

etc,and from what other time,back? A-Well it was from I830 up to I844,as much as we had of it in the history published in the papers.

I67 Q-Were any revelations published in that paper,that were given at any of those times? A-Yes sir.

I68 Q-They were? A-Yes sir.

I69 Q-Well now can you mention any time in which a revelation that you heard read in that paper was given? A-Yes sir.

I70 Q-Any single revelation? A-Yes sir.

I7I Q-Well what was it? A-The revelation of I84I,-given I think the I9th day of January was published in it,and many other revelations. It was not the only revelation that was published in in that paper.

I72 Q-Now you have one? A-Yes sir.

I73 Q-One published in I84I? A-Yes sir. Well now I will say it was published in that paper,but I don't recollect the date of its publication.

I74 Q-It was published ~~in that paper~~ you say in that paper of I84I? A-No sir I say that was the date of the revelation,-the revelation is dated then,but it is published in the Times & Seasons,and I have all those volumes now myself,and it is in them but I can't give the date of the publication of the issue that contains ~~them~~ it.

I75 Q-Now was there any account in that paper,-can you now tell of any account in that paper of any other revelations? A-Yes sir.

I76 Q-I want you to do so from your memory as I want to test it to see how accurate it is? A-Well the revelation of I832~~s~~was published in it.

I77 Q-Now you have two of them? A-Yes sir. I say there were dozens of them,-

I78 Q-Well sir I don't want those generalities,-the test of memory, and that is what my object is in making these questions,-is largely one of the dates? A-Yes sir.

I79 Q-And now I want to know the dates of some other revelations,-some other revelations you saw published in that publication?
A-Well if I had the books that contain them'I could tell you all about it,but I can't tell you all about these things,and go down into the minutes without I have the books to refresh my recollection.

I80 Q-Well we are talking about these publications now,and not about the books,and I want to test you as to the source of your knowledge and how accurate it is? A-The revelations that are found in the book of doctrine and covenants were publish-ed in the history of Joseph Smith,and they are strung all along through it.

I8I Q-Well I am talking about that paper from which you learbed these doctrines,and you testified that you can show doctrines from the Times & Seasons?
By Mr P.P. Kelley,:"The witness did not say that. He said it was an auxiliary to the standard works of the church".
By Mr Southern,-

I82 Q-You say you got one given in I84I from the Times & Seasons? One that was published from or in the Times & Seasons? A-Yes sir

I83 Q-There was a revelation given in I832 that was also published in the Times & Seasons? A-Yes sir.

I84 Q-Well now can you give any other? A-I don't know. I think it was a revelation that ~~many~~ called the law of the church and it was given in I832 I think.

etc,and from what other time,back? A-Well it was from I830 up to I844,as much as we had of it in the history published in the papers.

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I68 Q-They were? A-Yes sir.

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I78 Q-Well sir I don't want those generalities,-the test of memory, and that is what my object is in making these questions,-is largely one of the dates? A-Yes sir.

I79 Q-And now I want to know the dates of some other revelations,-some other revelations you saw published in that publication?
A-Well if I had the books that contain them'I could tell you all about it,but I can't tell you all about these things,and go down into the minutes without I have the books to refresh my recollection.

I80 Q-Well we are talking about these publications now,and not about the books,and I want to test you as to the source of your knowledge and how accurate it is? A-The revelations that are found in the book of doctrine and covenants were publish-ed in the history of Joseph Smith,and they are strung all along through it.

I8I Q-Well I am talking about that paper from which you learned these doctrines,and you testified that you can show doctrines from the Times & Seasons?
By Mr P.P. Kelley,:"The witness did not say that. He said it was an auxiliary to the standard works of the church".
By Mr Southern,-

I82 Q-You say you got one given in I84I from the Times & Seasons? One that was published from or in the Times & Seasons? A-Yes sir

I83 Q-There was a revelation given in I832 that was also published in the Times & Seasons? A-Yes sir.

I84 Q-Well now can you give any other? A-I don't know. I think it was a revelation that they called the law of the church and it was given in I832 I think.

I85 Q-You spoke about a revelation dated in I84I A-Yes sir,I think I did.

I86 Q-Well what is the revelation of date of'4I? A-It was quite a long revelation.

I87 Q-What if the subject of it? A-It was with reference to the build ing of a temple at Nauvoo,Illinois.

I88 Q-That is dated in '4I? A-Yes sir,and I will give you a quotation from it if.you desire me to do so.

I89 Q-Well if you can do so I would be very glad for you to give me anything that shows what the subject matter of the revelation was. A-Well this was in it,-"Let my servant Joseph and his house have place therein from generation to generation; for for this annointing have I put upon his head,that his blessing shall also be put upon the head of his posterity after him;and as I said unto Abraham concerning the kindreds of the earth, even so I say unto my servant Joseph,in thee,and in thy seed, shall the kindreds of the earth be blessed. Therefore let my servant Joseph and his seed after him have place in that house from generation to generation,for ever and ever,saith the Lord".

I90 Q-That is a revelation that was given in I84I? A-Yes sir.

I91 Q-At what time in I84I was it given? A-January I9th is the date it was given. That is the date,if I remember right.

I92 Q-You say January I9th I84I is the date of the revelation from which you have just quoted the extract? A-Yes sir,I think that was the date of it. It is in the book of covenants if I remember right,and the date of it is given in there.

I93 Q-Well that is all right,-we will probably look for it at another time. Now you remember that revelation very distinctly I suppose,-you aught to to be able to quote from it in the manner you have? A-Yes sir,I remember it distinctly.

I94 Q-Now will you state another revelation that you saw in that publi cation,the "Times & Seasons",or heard read to you? A-Why I don't remember now to give the data. All the book of covenants,more or less,was published in that either in a a general way from time time,or in that history of Joseph Smith,or the history of the church,and also in the Millenial Star. It is all in there more or less,and up to the time of his death there was his general history published in the Times & Season and Millenial Star,and by the way there is some others papers published that in also.

I95 Q-Well now these are all the revelations that you can mention that you learned about,from the Times & Seasons? A- I can't remember independently,but I know there were some of them there, and I think they were all there from time to time,-that is at one time or another they were all published. I think there was nearly one hundred from,-one hundred of them I should say in that history.

I96 Q-With their respective dates? A-Yes sir. I think so. I would not be positive,but I think they are there.

I97 Q-Well now will you give me some of the dates of some of the other revelations that appeared in that publi cation? A-Yes sir there was one given in I838.

I98 Q-There was one given in I838 you say ? A-Yes sir.

I99 Q-What was the subject of that? A-On tithing it was. I would not be absolutely positive,but I think that was the time that revelation was given.

200 Q-Well now give us another revelation that appeared in the Times & Seasons that you can remember? A-Well now if you will hand me

the book of covenants I will tell you all of them. If I had the book here we could save time and I would tell you all of them?

201 Q-Well that is not what I want to do. You have been testifying from your recollection or memory,and I want to go on in that way? A-Well go on,that is all right.

202 Q-Well was there any other given in 1840 that you can call to mind A-Published in the book of covenants?

203 Q-No sir,in the book of,-in the Times & Seasons I mean? A-No sir I don't think there was any in 1840.

204 Q-In 141? A-Yes sir.

205 Q-Was that the one you have spoken of? A-Yes sir.

206 Q-Was there any in 1842? A-Well there was some letters by Mr Smith that were published in 1842 I think.

207 Q-Published where? A-In the Times & Seasons.

208 Q-Some letters by Mr Smith were published in 1842? A-Yes sir.

209 Q-What did they purport to be? A-Some of them were in relation to baptism,-the manner in which it should be conducted.

210 Q-Do you remember what kind of baptism was mentioned in these letters? A-Yes sir.

211 Q-What kind of baptism was it? A-Baptism for thedead.

212 Q-And that was in 1842'? A-Yes sir,the letters I think were dated in 1842.

213 Q-Were those letters authority? A-How.

214 Q-Were those letters considered or held as an authority in the church? A-Well they were never received as we know of.

215 Q-Were they considered or held as an authority on that subject in the church? A-I do not know that they have been regarded like the other revelations in the book of Doctrine and Covents. They were letters written to men in the city of Nauvoo at the time,and were published. He was not in the city of Nauvoo at the time for those letteres were addressed to men there in Nauvoo.

216 Q-Well they were regarded as expounding the doctrine of baptism were they not? The doctrine of baptism for the dead,and the manner in which it should be performed? A-Yes sir

217 Q-Expounding it for whom,-for whose benefit? A-Well for the benefit of the church.

218 Q-At that time Joseph Smith was the President of the church was he not? A-Yes sir.

219 Q-The time that you read or heard read these revelations was from 1842 through'43 and in '44 down to the time of the death of Joseph Amith? A-Yes sir. That is the time that I have more particularly in mind.

220 Q-Now while you were speaking of the revelations that were reported in the Times & Seasons,do you remember seein a revelation that purported to have been given on Fishing River,generally referred to as the "Fishing River revelation"? A-Yes sir I think so. I think that is the title of it. If you will give me that book I will tell you all about it in a minute.

221 Q-Well you are testifying now and not the book? A-Well I know,but it is rather hard to answer these questions,for I never thought of them in this light before you know.

222 Q-Can you give me the date of the Fishing River revelation? A-No sir I don't think I can.

223 Q-Where is Fishing River,as you understand it? A-I think it is in Missouri.

224 Q-Do you know the substance of the Fishing River revelation? A-I think I do.

225 Q-Now you have testified to the doctrine of the church, from what you have read? A-Yes sir.

226 Q-How can you give me the revelation? A-I don't know that I can give you the revelation or even the gist of the revelation, but I know there is such a revelation.

227 Q-But you can't give the substance of it? A-No sir,for I have for gotten it,or can't bring it to my mind any how.

228 Q-I refer to the Fishing River revelation? A-I understand.

229 Q-Can you state how much there was of that revelation,-whether there was a small single paragraph,or several paragraphs? A-I think there was several paragraphs.

230 Q-Do you remember by whom that revelation was given? A-It was given through Joseph Smith I suppose. All of those revelations were given through him,or nearly all ,-some of them were given in connection with other parties.

231 Q-Was,or was not that Fishing River revelation given on June 22nd 1834? A-I cannot tell you.

232 Q-Well,what is your best impression as to that? A-I couldn't tell you that sir,for I haven't my dates,-the dates and times that these revelations were given,-that is something I haven't in my mind at the present time. I remember some of them, but not all or anywhere near all of them.

233 Q-When were these revelations delivered,-in 38,41 or 42,-these revelations in '42,-given in '42,-were they published in any other publication besides the Times & Seasons,and if so in what publication or publications?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not cross-examination.

234 Q-I will modify that question,-when were they published in any other form, if they were published in any other form? A-They were published in the book of Doctrine and Covenants,and some of them is what is called the Book of Commandments.

235 Q-When were they published in the book of Doctrine and Covenants? A-In 1835.

236 Q-I am talking about the revelations of '41,'42 and '43,and the revelations of 1838 also,-when were they published in the book of Doctrine and Covenants? A-I don't know when they were published. I suppose though they were published when the next edition came out,-whenever that was.

237 Q-Well I want to get you to state what edition they were first published in? A-Well the last Nauvoo edition that I remember of seeing published was published in 1845,and they were in that.

238 Q-They were in the Nauvoo edition of 1845? A-Yes sir.

239 Q-Were they in any edition prior to that time? A- I don't think the '41 revelation was in that'. I don't think it was ever published in the book of Covenants until 1845,-that is if it was I don't remember of ever noticing it.

240 Q-Now do you know what is meant by the "rejection of the church"? A-Yes sir,I think I do.

241 Q-Well do you know,-that is the question Mr Briggs,and not what you think,-do you know? A-Yes sir.

242 Q-Well what is meant? A-The dis-organization and rejection of the church.

243 Q-Has that a meaning with reference to the church at Nauvoo? A-It had reference to the church as an organization,and the effect of the dis-organization was to disorganize it as a bod -y or as an

244 Q-Or-ganization.
245 Q-Has that term any special reference or significance in connection with any event that occured to the church at Nauvoo? A-I don't know as I understood that question.
246 Q-I say has the phrase "rejection of the church",any meaning as applied especially to any event or incident in connection with the church at Nauvoo? A-That took place?
247 Q-Yes sir? A-Yes sir.
248 Q-What incident would itrefer to? A-It refers to the fact that if under certain conditions they did not do a certain work, they should be rejected as a church with their dead.
249 Q-At what date did that take effect? A-The time of the rejection?
250 Q-Yes sir? A-Well I don't know what date they were rejected, The understanding that we have always held,or at least I have is that it signified that at the time the church was dis-organized,then it was rejected.
251 Q-Are any revelations according to the doctrines of the church which you know represent,considered binding,without they have been bound and placed in the book of Doctrine and Covenants? A-No sir. Then when was it disorganized? A-I think June 27th
252 I844.
252 Q-Are any revelations according to the doctrines of the church which you know represent,considered binding,without they have been bound and placed in the book of Doctrine and Covenants? A-No sir.
253 Q-They were not considered authoritive in the church to which you now belong unless that is done? A-No sir.
254 Q-Were these revelationsof which you speak in I84I and '42,-you also spoke of a revelation given in I853? A-No sir,I spoke of a letter written in I842 by Mr Smith expounding the book of covenants.,and it was also inthe book of covenants publish-ed later,and in the Times A Seasons at that time. I referred to letters from Mr Smith,in which he gave his instructions touching the matter or subject of baptism. That is what I referred to.
255 Q-Were those letters considered authoritive in the church? A-No sir.
256 Q-Well do you know whether they were considered authoritive in the church at the time they were written? A-I know they were never received as authority according to the best information I have had. They were never received as an authority in the church to my knowledge.
257 Q-Well do you say they were not received as authority? A-I say they were not to the best of my knowledge and belief,and I am quite positive they were nor. If they were I never heard any thing of it,and I don't think they could be without my knowing it.
258 Q-Do you know whether they were considered as expounding the truth to the church? A-No doubt they were wise instructions. We so hold them to be wise instructions.
259 Q-They expounded the truth? A-Yes sir,upon the question of baptism they do,and that doctrine we hold to be the truth.
260 Q-Do you hold that to be the truth still in the re-organized church? A-We hold them to be wise instructions,but we have not as yet received them.
261 Q-Do you hold the exposition as there given as the truth,-do you so hold it now in the re-organized church? A-We never received any revelation when receiving these instructions,and we therefore do not receive them in any other light than as wise instructions,we do not receive them or regard them in the nature of a revelation or anything of that kind.
262 Q-Were those letters ever placed in the book of Doctrine and Covenants? A-Yes sir,but not as a revelation.

263 Q-When were they placed in the book of Doctrine and Covenants? A-In I845,-I think that is the date of the edition in which they are first found.

264 Q-Was the book of Doctrine and Covenants ever adopted? A-Prior to that time it had been.

265 Q-Had been what? A-Had been adopted.

266 Q-Prior to what? A-Prior to that time it had been received and adopted by the church.

267 Q-When was it that it was received by the church? A-In I835 it had been received by the church. That was the time that the most of the revelations were received, by the church for nearly all of them had been received before that time,-there was only three or four received after that.

268 Q-Well now Mr Briggs what I want to get at is what book of Doctrine and Covenants, were those letters first published in? A-It was in I845. Now that is my memory. If my memory serves me right, that is the date of the book.

269 Q-Now was that book published in I845 ever adopted by the church in any way? A-No sir.

270 Q-It was not? A-No sir. It could not have been for the reason that the church as a church had been rejected prior to that time. The church as an organization had been rejected at that time.

271 Q-Then if any of your brethern have at any time during the progress of this investigation, presented that book published in I845 as an authority in the church as published, what do you say to that? A-No sir.

272 Q-They have made a mistake? A-That have never presented it, so there has been no mistake.

273 Q-Well I say, if they have, they have made a mistake, haven't they? A-I think so. I don't think any one that is posted in our church would do that, and so I say the book has never been presented here in that way,-that is as a authority in our church. Of course there is a great deal,-nearly the whole of the matter contained in the book of doctrine and Covenants is contained in that book also.-

274 Q-Well we are speaking of what it contains,-particularly the revelation of I84I? A-The letters of Joseph Smith were never presented to the re-organized church as an authority, and were never recognized by it as an authority.

275 Q-So then, you state here that the book of doctrine and covenants of the I845 edition was never accepted by the re-organized church as an authority, and has never been adopted by the church A-No sir it has never been adopted and accepted as an authority.

276 Q-In neither the old church, or the re-organized church? A-No sir, for the church was rejected at that time. It was published under the auspices of the Twelve in I845, and at that time the church had been rejected.

277 Q-The book of I845 was published under the auspices of the Twelve A-Yes sir.

278 Q-What Twelve? A-The twelve that had formerly been in the old organization before it was rejected.

279 Q-The same Twelve who at that time were claiming that they were the old organization? A-Yes sir, I suppose so. They claimed that.

280 Q-They made that claim then? A-Yes sir and they make it yet I understand.

281 Q-They claim that yet? A-Yes sir.

282 Q-This rejection of the church of which you speak expresses the

view of thexre-organized church? A-Yes sir.

283 Q-And not the view or opinion of the Twelve under whose auspices the book of doctrines and covenants of the 1845 edition was published?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not proper cross-examination.

A-Yes sir.

Counsel for the plaintiff moves the court to exclude the answer of the witness from the record for the reasons given in the above objection,and on the ground that it is not the best evidence,but is only the opinion of the witness,who is not authorized to speak for the re-organized church.

284 Q-Now Mr Briggs if the book of Doctrine and Covenants of the 1845 edition was approved,-was not approved by the church,I should say,except as you have stated,-what books of doctrine and covenants with their dates,prior to that time were approved?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immeterial,not cross examination,and calls for an opinion of the witness only.

A-I stated that I did not recollect that yhe revelation of 1841 was ever published in the book of of covenants until 1845. Now that was or had been added to a volume xxxxxx that was known as the book of covenants that was published in '45 but I don't know that the revelations of '38 or '41 had ever been published in that form in the book of covenants prior to that time. The first time that I ever saw it was in an edition published after the rejection of the church.

285 Q-That was what was called the edition of the book of covenants of the edition of 1845? A-Yes sir.

286 Q-Now if you don't regard the edition of 1845 as having been adopted by the church,what book of Doctrine and Covenants prior to that time,do you regard as having been adopted by the church? A-That is easily stated.

287 Q-Well state them? A-Those that were adopted by the church prior to the death of Joseph Smith in 1844,-or rather those that were published by the church prior to that time.

288 Q-Well that was prior to 1844? A-Yes sir.

289 Q-Up to that time or year? A-Yes sir,if there was any publication in that year.

290 Q-Well now as you have been in the ministry for so long a time as you have testified,and these books you regard as the foundation of your faith,can't you state at what date these books of doctrine and covenants to which you xxxx do hold as having been adopted by the church,were adopted by the church? A-I don't remember that there was any edition published as I have already stated from 1835 until 1845. Now I do not say there was not any published during that time,for there may have been,but if there was I do not know of any.

291 Q-You do not know of any edition after or between the edition of '35 and the edition of '45? A-No sir.

292 Q-After the edition of 1835,the next edition was published in 1845? A-Yes sir,and there was only two or three revelations after that if I remember right.

293 Q-After what? A-After 1835. There was one in '38 and one in '41, and perhaps one in '37. There was one then I think if I xx remember

right.

294 Q.-What does that one given in I837 refer to? A-It has reference to Thomas B. Marsh I think,and I think the date was '37. If I remember right that is the date,and it was published in the Times & Seasons and the Millenial Star.

295 Q.-What revelation was that? A-The revelation to Thomas B Marsh.

296 Q.-What is the substance of it? A-I can give you one idea regarding it.

297 Q.-Well please do so? A-Let me see if I can get that in mind. In speaking of the Quorom of Twelve,and of their temptation and hardness of heart,-it says"after their temptationsx and much tribulations,bedold I,the Lord will feel after them,and if they harden not their hearts and stiffen not their necks against me they shall be converted,and I will heal them". That was after their temptation and trial,and spoke of of something in the future.

298 Q.-Now you take that revelation to refer to the Quorom of Twelve in Nauvoo in I845,and it was put in this book? A-Yes sir,they put that in there with the rest of them.

299 Q.-You take it to refer to the same quorom of twelve that afterwards went to Salt Lake City? A-Yes sir,-some of them went there but it was not the quorom,or the makority of the quorom as a quorom that went to Salt Lake.

300 Q.-Well was it not a majority of the quorom that went? A-No sir for it was dis-organized as a quorom at that time. I told you that before.

30I Q.-Well that of course is merely your claim,-that is the view of the re-organized church,and not the view of the quorom,and was not their viewat the time? A-And they claimed it too. They claimed it also for at the re-orgaimation some years afterwards up at Kainesville they took three out of their quorom for instance there.

302 Q.-Well did not nine of them leave there to-gether,and go to Salt Lake City? A-No sir.

303 Q.-They did not? A-Not as a quorom.

304 Q.-You do not assert that postively? A-I do sir.

305 Q.-That is as it is viewed from your stand point? A-I mean from their stand point.

306 Q.-How do you know their stand point? A-Because I know the record of it sir.

307 Q.-From whom did you get the record? A-From the published statements and the history of it as it occured.

308 Q.-Now Mr Briggs you have spoken of what you call and term a "re-organization"in I85I,and you have also stated that the doctrines of the re-organized church were precisely the same as the doctrines of the church termed the old church? A-Yes sir.

309 Q.-That is what you testified to? A-Yes sir.

310 Q.-Now I will ask you if that re-organized church,afterwards adopted the book of Docyrine and Covenants,-that is adopted it afterxxxxx the re-organization as you term it? A-Yes sir.

3II Q.-When did it adopt such a book first? A-The re-organized church adopted the book of doctrine and covenants for what it purported to be,and the standard books of the churhh,-the book of Mormon,the bible and the book of doctrine and covenants were adopted as the standard books of the church,the same as they hadbeen in the original church,and that was done at the first conference of the re-organized church in I852.

312 Q-And did it adopt the book of covenants? A-Yes sir.
313 Q-Well did it adopt the book of doctrine and covenants and every thing contained in it,that was adopted and published by the twelve after the rejection as you term it,in 1845? A-They adopted what purported to be the book of doctrine and covenants as recognized in the history of Joseph Smith written during His life time.
314 Q-Well did they adopt every thing contained in that book of Doctrine and covenantspublished in 1845,to which reference has been made?? A-No sir.
315 Q-They did not? A-No sir,they paid no attention to it.
316 Q-Well what did they leave out? A-They adopted it in so far as it purported to contain the revelations of Joseph Smith as contained in the edition of 1835,and the revelations that Joseph Smith by his published writings recognized to be his revelations. They did not adopt it in its entirety or indeed any portion of it,but they adopted the book of 1835. What I mean to say is that there was very little difference between the edition of 1845 and the edition of 1835,-as there has been only three or four revelations given between these dates and the ones given of course after 1835 were in the 1845 edition,but as it was published after the death of Joseph Smith, and after the rejection of the church,of course the re-organization did not recognize it. The re-organized church I might say just take that 1845 edition for what it is worth without any reception or rejection about it,-they simply accept it for what it is worth as they do his letters,and not as an authority or law unto the church.
317 Q-Did they,or did they not in adopting what was contained in that book of 1845 adopt the revelation of 1841 of which you have spoken,the revelation of 1838 of which you have spoken,and the letters of Jospeh Smith of which you have spoken? A-They adopted it for just what it is worth,-just what it shows itself on its face to be,if you desire to have it in that way,-there was no formal adoption about it,nor was there any formal rejection,-but it was accepted for what it was worth,and,nothing more.
318 Q-Just the same as the afoted or accepted anything else in the book? A-No sir,for they did nevr accept these letters of Joseph Smith at all. These never have been accepted,-that is these letters,for they have never been accounted as an authority like the revelations.
319 Q-Well did they make an exception of these letters? A-They adopted it as purporting to be the word of the Lord,-simply that and nothing more.
320 Q-As published in that book? A-Well as purporting to be the revolations of Joseph Smith. There is somethings in there that were published afterwards,that Joseph Smith never saw or heardof and they did not accept them. I wish to be understood as saying that whatever was in the book that was in conformity with the other accepted utterances of Joseph Smith upon which the church had passed was accepted,-in other words the book was taken for what it purported to be,and nothing more than that.
321 Q-Well then you have a book of doctrine and covenants in the reorganized church? A-Yes sir.
322 Q-It is the book adopted in 1852? A-Well we did not adopt,-I mean we did not publish any edition then. We just accepted the revelations as published,-you see the history of these revelations is in these papers as published by Joseph Smith himself,-It is in those papers that I referred to,and the revelations are found there alto gether.

323 Q-Right there/ Mr Briggs I will ask you this,-was ever a revelation an authority in the church that was not found in the book of Doctrine and Covenants? A-No sir.

324 Q-Then do you state that these revelations which you saw,-the revelation of '4I,-the revelation of '38,and any others that may have been given,and which were not in the books of doctrine and covenants during the life time of Joseph Smith,were or were not authority before they were published in the book of Doctrine and covenants? A-No sir. What was published in the Times & Seasons before Joseph Smith's death were not regarded as an authority until they are found here in this book

325 Q-And if any other resolutions had been found in the Times and Seasons,and not published in any book of doctrine and covenants,prior to the date of I845,or that edition of the book of doctrine and covenants,were they considered to be,and were they in fact an authority for the church? A-No sir,they were not. I am not aware there was any,-if there was any,they were nit recognized as an authority.

326 Q-What did it take to constitute them as an authority? A-What?

327 Q-A revelation as an authority? A-To be passed by the general rule that they had.

328 Q-How was that done?. A-I think it was first passed by all the quoroms,andI do not know to what extent,-by the way I believe the history of it is all given,for they were passed through all the quoroms.

329 Q-You did not publish a book of doctrine and covenants in I852? A-How!is that?

330 Q-You did not publish a book of doctrine and covenants in I852? A-Do you mean the re-organized church?

331 Q-Yes sir A-No sir.

332 Q-When did the re-organized church first publish an edition of the book of doctrine and covenants? A-Well I could not tell you the exact date,but it was some time after '60.

333 Q-Since you have been a member,and a minister in the church? A-Yes sir.

334 Q-And an elder in the church? A-Yes sir.

335 Q-How many books,-or rather how many editions of the book of doctrine and covenants have been published since I860? A-I couldnot tell you that.

336 Q-More than one? A-Do you mean by the re-organization?

337 Q-Yes sir? A-I think there has been two perhaps. I know there has been more than one since that for there has been additions made to it since then,for we have had several revelations that are published in the book of doctrine and covenants,and to use an old phrase of the origina edition published by the re-organization,I guess there has never been but one plate made or published.

338 Q-There has been several revelations given since I860? A-Yes sir.

339 Q-Was there one given in I85I with reference to the re-organization of,the church,-that is was there a revelation given at that time in reference to the re-organization? A-In I85I?

340 Q-Yessir? A-None that is recognized in the book.

34I Q-Was there one in I852? A-No sir,-not that is recognized or incorprated in the book.

342 Q-What about this revelation of Deans? A-Well that was in reference to the re-organization.

343 Q-Well at what date was the Deams revelation ~~xxxxxxx~~ given?
A-Well the revelation of Deam was received in the winter of '52. In 1852 or '53 in the winter I think.. I don't remember the date b t it was somewhere ~~a~~hong there I should judge in the winter some time.

344 Q-Deam's revelation was given in the winter of '52 or '3? A-Yessir

345 Q-What did you say that referred to? A-Well it purported to be a commandment to re-organize the quoroms,and appointed seven men to be chosen as apostles and special witnessess for the church that is the pith of it.

346 Q-Was there anything in it,about who should preside at the conference? A-Yes sir?

347 Q-What was that? A-That the greatest should preside.

348 Q-The greatest shoud preside? A-Yes sir.

349 Q-The greatest in what respect,-in what respect were they to be the greatest? A-Let me see how that was.-that the conference should be organized,and that the greatest,-well I don't remem-ber it but I know the word "greatest"is found in it.

350 Q-Well was there any special person ~~xxxxxxxxxxxxxxxxxxxxxxxxxx~~ at that time to whom that referred? A-What is that?

351 Q-Was there any special person at that time present,to whom that word "greatest",referred? A-Well that was a matter of discussion for the conference to pass on. There was a division of opinion as to what it meant.

352 Q-Well what was the opinion? A-Well some thought it meant the highest in authority.

353 Q-Some thought it meant the highest in authority,and some thought something else? A-Yes sir. There was a question as to who was the highest in authority there.

354 Q-Was that question ever settled? A- Yes sir.

355 Q-When? A-Right there.

356 Q-In whose favor was it settled? A-It was settled in favor of Jason W. Briggs.

357 Q-Your brother Jason W. Briggs? A-Yes sir.

358 Q-What office did Jason W. Briggs hold? A-That of first High priest.

359 Q-Are all high priests always elders? A-Yes sir High Priests are always elders.

360 Q-Are elders always high priests? A-No sir.

361 Q-Have you not testified that Jason W, Briggs was an elder in the old church? A-Yes sir.

362 Q-Well I see I se e I have made a note here to ask you the question,how you knew he was an elder in the old church prior to 1844? A-Because he came into the neighborhood where I lived and baptized and ministered and preached,and had a license as a minister. I should say strickly speaking that he had a license as an elder.

363 Q-Did you ever see his license? A-Yes sir.

364 Q-You did? A-Yes sir.

365 Q- A license from whom? A-William O Clarke I think ordained him.

366 Q-Who ordained him? A-I said William O Clarke baptized and ordain-ed him.

367 Q-How do you know that he did that? A-Wel that is hisstatement.

368 Q-His statemnt to you personally? A-Yes sir.

369 Q-Now speaking of those highest in authority,-what one claimed to be the highest in authority there at that time? You

say there was some question about who was the highest in authority there,or in other words,who was the greatest,and now I would like to know who else claimed to be the greatest or highest in authority there? A-There was some discussion there as to whether one who held the office of President of the seventies was not the greatest,and there was a man there that held that office,-that is the office of President of the Seventies,and he claimed to be the greatest.

370 Q-Who was that man? A-Zenas H. Gurley,

371 Q-What is the doctrine of your church in reference to that,as to who is the greatest? A-Of the re-organized church?

372 Q-Yes sir,-what is the law and doctrine of the re-organized church in reference to that? A-Well it is according to where they are laboring. The doctrine of our church recognizes the Seventy as associated closely with the High Council,and as travelling ministers they are the greatest,and as a presiding officer they or high priest and elders rank first. That is their specific duty as presiding officers, but each office is an honorable office,-one is as honorable an office as the other.

373 Q-Do you mean for me to understand you as saying that Jason W Briggs,-? A-Yes sir.

374 Q-Do you mean for me to understand you as saying that Jason W. Briggs was/ordained as an High Priest in the old church? A-I don't know whether he was ordained,-I know who ordained him but I don't know when,-that is what I wish to say,-that I know that he was ordained,but I don't know when. He wasordained in the re-organized church under the hands of William Marks.

375 Q-I asked you if he was ordained in the old church? A-I couldn't say of my own knowledge that he was ordained in the old church.

376 Q-How do you know he was or dained by William Marks? A-He told me himself that he was ordained by William Marks.

377 Q-And that is the way you know it? A-Certainly,for I did not see it performed.

378 Q-Now do you know or remeber whether this ordination you speak of was before or after the re-organization? A-It was before. Yes I remember now it was before. I said it was after the re-organization but that was a mistake,for it was before.

379 Q-Then it was before the re-organization? A-Yes sir.

380 Q-Was it afact that certain people who had been members of the old church after its dis-organization,and before the re-organization of the church of which you speak,were in the habit of ordaining priests and officers of a church,that did not exist? A-Let me understand you,-what is the question,-I don't understand it.

381 Q-I asked you if you meant to be understood as saying that persons who belonged to the old church,as you call it,prior to '44 I should say after 1844,and prior to '51 or '52,when the reorganization took place as you claim,-were in the habit in that interim of ordainging people to office in the church? A-Yes sir.

382 Q-To what office in a church that don't exist could they be ordain-ed? A-Well I don't know about that. No,I don't know about that?

383 Q-Do you know of any instance of it? A-Of what?

384 Q-Of an ordination,or pretended ordination between the rejection of the church,as you term it,and the re-organization? A-Yes sir there must have been plenty,but I don't know that I was pre ent or saw any of them.

385 Q-In that interim? A-Yes sir.

386 Q-You know of instances of that kind occuring? A-Yes sir.
387 Q-Well,give us an ins ance of it? A-Brgham Young and that company that went to Utah did all the time,and are doing so today.
388 Q-That is the church that was rejected according to your way of looking at it? A-Yes sir.
389 Q-Did they,and do they not,claim all the time to be the old church A-Yes sir,but their claim does not make that so.
390 Q-Neither does the fact that you dispute their claim render them not the true successor to the old church? A-That is a matter of opinion and evidence.
391 Q-Well they still claim to be the successor of the old church,-to be the old church? A-Yes sir.
392 Q-Now in my former question I refer,and am speaking of men who regarded the old church as having been rejected between 1844 and 1851 or '52,and the ordination of these men of others into office in the church? A-No sir,I don't know of any.
393 Q-You don't know of any instances of that kind? A-No sir,I don't know of any instances that any body recognized the church as rejected up to the re-organization.
394 Q-Now is it not a fact that this ordination to the High Priesthood of Jason W Briggs was done in the Strang faction of the church? A-Yes sir,it is possible. I wouldn't say where he was ordained,or when,but I know it was William Marks ordained him, but I would not say where.
395 Q-Youdon't know whether it was as in Strangs church or not? A-No sir
396 Q-Or in William Smith's faction? A-No sir.
397 Q-You know it was not in,-?A-It may have been in William Smith's organization. I may have known at obe time how that was,but if ever I did know I do not remeber it now. Yes I do remember. By the way he was ordained in William Smith's organization,but whether he was ordained and High Priest or not I could not say.
398 Q-You remember that now? A-Yes sir,but I can't say to what position or office he was ordained at that time.
399 Q-You remember though it was in William Smith's faction of the church? A-Yes sir.
400 Q-Well does the re-organized church,-after the re-organization,-recognize the ordinations made in Strangs faction and William Smiths church or in any other faction of the church as valid? A-No sir,they don't.
401 Q-They do not recognize all ordinances made in that way? A-No sir.
402 Q-Well now then,if that is the case,was Jason W. Briggs,ever an High priest? A-What is that?
403 Q-I say if it is asx you say a fact that the re-organization does not recognize ordinations made in these different factions of the church between 1844 and 1852,was Jason W. Briggs ever ordained an high priest,-was he ever ordained to the high priesthood? A-How is that?
404 Q-Was yourbrother Jason W. Briggs,ever ordained to the high priest-hood? A-Well that is what he claimed to be. I don't know I have told you all I know about it,and given you my authority for it.

By Mr P.P. Kelley,-"Let the record show that all this line of examination is objected to on the ground that it is irrelevan and immaterial and not cross-examination."

By Mr Southern,-

405 Q- Now Mr Briggs you have spoken of a revelation given in 1851, or '2 or '3? A-Yes sir.

406 Q-By which,or under which the church was organized,and various other things done? A-Yes sir.

407 Q-About the "greatest in.authority"and so on? A-Yes sir.

408 Q-Now do you call to mind any other revelation that was given soon after that? A-No sir.

409 Q-Do you know anything ~~xxxxxx xx xx~~ of a meeting in or about that time,that was held between Beams and Briggs and two or three others,at the subject of the re-organization was discussed? A-No sir,~~xxxxx

428 Q-When was there another one given after I86I? A-In I865.
Counsel for the plaintiff objects to the question for the reason and on the grounds that it is not cross-examination,and not relevant or material,and not the best evidence.
429 Q-What was that concerning? A-It was concerning the ordination of officers in the church.
430 Q-What was the substance of it? A-Well it was inrelation to ordaing paople of the colored race to offices in the church.
43I Q-What was that revelation about the colored race?-will you please state it? A-Well if there was them among them to minister to their own race it would be acceptable,but it advised not to be hasty in ordaing people of the colored race.
432 Q-That was it? A-Yes sir.
433 Q-What was there besides that in that revelation? A Well that was one of the leading items,but I can't recollect it well enough now to bring it all to mind.
By Mr Kelley,-"We move to exclude the answers to the last twenty four questions on the ground that they are irrelevant,incompetent,and immeterial,and not cross-examination,nor the best evidence". "And we make the same objection and motion to all questions and answers that will follow on the same line of examination for the same reasons".
By Mr Southern,-
434 Q-When was there another revelation given that you remember of subsequent to I865?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds thatit is irrelevant and immeterial,and not cross-examination.
A-I think there was another one given in '73. I don't remember positively,but I think it was in '73 that the next one that I call to mind now was given.
435 Q-What was that in reference to Mr Briggs,-according to the best of your recollection? A-I think it was choosing several offi-cers in the quorom of twelve,and also into the first Presidency. These were the leading parts. There was different officers chosen in different places. That is the nature of it the best that my memory serves me now.
By Mr Kelley,-"We move to exclude that answer also for the same reasons,and on the ground that the book containing the revelation is the best evidence,and it is in the hands of the attorney propounding the question".
By Mr Southern,-
436 Q-When was there another revelation given Mr Briggs,-if there was another given?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immeterial,and does not call for the best evidence,and is not cross-examination.
A-Why there was,-there has been some one or two since.
437 Q-When was the first one given after '73?
Counsel for the plaintiff objects to the question for the reasons and on the grounds above set forth.
A-There was one given at Kirtland I remember.
438 Q-Kirtland,Ohio? A- Yes sir.
439 Q-In what year? A-Last spring I think there was one given there, and I think there was one between that and the other one. I don't remember the dates now,for it is not particularly fixed in my mind.
440 Q-Was there one given in I882 any where? A-At Lamoni,-

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it does not call for the best evidence,is incompetent,irrelevant and immeterial, and is not cross-examination,and moves the court to exclude from the record the answer of the witness for that reason.

441 Q-When was the first one given after '73?

Counsel for the plaintiff objects to the question asked the witness for the reasons,and on the grounds above given.

A-I have answered that question as best I could.

442 Q-Excuse me I believe I did ask that question,and I donot desire tox repeat this cross-examination,but to get through with it as soon as I possibly can. Now you said there was one given at Lamoni? A-Yes sir. The dates of these xxxxxxxxxxxxxxx various revelations are in the book that you have there,and you can get the dates from it. I don't rememberthe dates,but there has been some two or three revelations given since 1873.

443 Q-Do you remember whether there was one given to the elders of the church in 1887?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant,incom-petent and immeterial,not the best evidence,and not cross-examination.

A-I presume it was,if it is there, I remember there was several revelations given but I can't recall thedates,or where they wer all given.

444 Q-Now do you say there was one in 1890?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as set forth above".

A-Yes sir,there was one given in '90.

445 Q-Has there been one given since 1890 that you know of?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immeterial,not the best evidence,and xxtx not cross-examination.

A-No sir I don't remember of any.I haven't thosedates riveted on my mind,and I cannot tell you.

446 Q-If there was one given in 1882,and one in '87,and one in 1890 are they in the book of doctrine and covenants? A-I think they are in there.

447 Q-Are they as authoririve as any other revelations in the book of doctrine and covenants? A-Yes sir,I think so, We so regard them.

448 Q-If the fact beas you have stated it Mr Briggs,that these revela-which you remember,and other which you think may have been given which you do not remember since 1844 at Nauvoo,or since 1851 or '52 at the re-organization,-how can you swear that the doctrines of the re-organized church at the present time,are the same as were the doctrines of the old church from 1830 to 1844? A-I have been well acquainted with the doctrines of the church since the first,-I heard of it and was very much interested in it from the xxxx first,-after the third sermon I have paid very close attention to it,and have had very close interests and associations with it from that day to the present,and I thinl I am qualified to speakregard-ing it.

449 Q-Now Mr Briggs I believe you want to answer xxx question but you haven't done so? A-Very well sir,I will do so.

450 Q-Well do you regard that as an answer to be question? A-If I understood the question it is. I understood you to ask me how I knew the doctrines of the re-organized church was in accord with

the doctrine of the church,known as the old organizat ion?
451 Q-No sir that is not quite my idea,-just repeat the question to the x witness(speaking to the Notary).(The following is the question referred to,-"If t e fact be as you have stated it Mr Briggs,that these revelations which you remember,and others which you think may have been given,which you do not remember since I844 at Nauvoo,or since I85I or '52 at the re-organization,-how an you swear that the doctrines of the re-organized church at the present time,are the same as were the doctrines of the old churchfrom I830 to I844? A-The epitome of faith of the church under its old-organization is the same as that of the re-organization,touching the primary principles of the doctrine. What I first heard and believed of the old organization I now believe;and it has been the teachings of the church all along,therefore I can swear I know them to be the same and identically the same.
452 Q-That is your answer to the question asked you? A-Yxx xir It is.
453 Q-Then do you swear that the doctrines of the revelations since I844,and since the re-organization in I852 are the doctrines of the church,-or were the doctrines of the old church,from I830 to I844? A-Yes sir,-there has been no conflict since.
454 Q-Then do you,-then if there was a revelation at Fishing River,was that a doctrine of the church from I830 to I834? A-What is the date of that revelation?
455 Q-If there was a revelation given on Fishing River in I834,was that the doctrine of the church from I830 to February I834,-if there was a doctrine at Fishing River, given in a revelation in June I834,was it the doctrine of the church from I830 to February I834? A-There may have been an item, given there thar was not in it before. It certainly couldn't have been the doctrine of the church before it was given,but if that is the case it was in harmony and not in conflict with anything that went before.
456 Q- Then if there was a revelation given in I835 or '38,was it a doctrine of the church from I830 to I835? A-In harmony,but not in conflict,-
457 Q-Well was it a doctrine of the church from xxxx I830 to I835,-that is the question for you to answer Mr Briggs? A-Well as far as I know,there might have been more light thrown on the revelations that had been given prior to that rime.
458 Q-There "might have been"? A-Yes sir,and there is no doubt but that there was. These revelations you will find are all in harmony and do not conflict.
459 Q-Now if there was a revelation about the building of the temple given in I84I,was that an authoritive revelation of the church prior to that time,and binding upon the church? A-No sir. Do you refer to the temple at Nauvoo?
460 Q-Yes sir? A-No sir,there was no authority for xxxxxxxxxxxxxxxx building the temple at Nauvoo,prior to that time.
461 Q-Well now if there was a revelation given in I838 about tithing and other things,-? A-Yes sir,there was one,-
462 Q-Which afterwards became a binding law of the church? A-Yes sir.
463 Q-Was that revelation a binding law upon the church prior to that time? A-No sir,but there was a detail in I838 expounding the law that was to come,but which was not to be in conflict with anything given before.
464 Q-Now if there was a re/elation by Deams or Briggs,or any one else in '5I or '52 or '53 about the re-organization of the church

was that a doctrine of the church prior to I844? A-No sir.

465 Q-It was not a doctrine of the church? A-No sir,but they were in harmony with what had been given before that time. They were all in harmony,-one with the other.

466 Q-Do you state that a doctrine which recognizes a dis-organized church was in harmony with the doctrine of a church which had not been dis-organized? A-Yes sir.

467 Q-You state that as a fact? A-Yes sir,in exact harmony and agreement with them.

468 Q-Now if there was a revelation in I860 and '6I given by Joseph Smith,and one in '~~65~~ I865 also given by Joseph Smith,-one con-cerning the colored race,-and another one in I873,and still another one in I890,all by Joseph Smith,were these identified with the doctrine of the church,-of the old church from I830 to I844? A-In harmony with it?

469 Q-I ask you if they were identical ~~in xxxx xxx xxxxxxxxxxxxxxxxxx~~ in doctrine with the doctrine of the old church from I830 to I844? A-Yes sir.

470 Q-They are? A-Yes sir in doctrine they are identical.

47I Q-They are identical in doctrine with the old church from I830 to I844? A-Yes sir.

472 Q-Were there any revelations such as these I have mentioned as having been given sincethe re-organization of the church, given prior to the time that these respective revelations were given? A-No sir,I presume not.

473 Q-Were there any revelations given on the subject of these revelations,prior to the time when these revelations were given? A-Why they did not convey these same ideas in the same clothing,but it was in harmony with what has been.

474 Q-Well let me see if I can get your meaning;Is this what you mean by "harmony"? That when it is established that there shall be a revelation,that revelations may be given by the President of the church? A-Yes sir.

475 Q-And that all subsequent revelations are in harmony? A-All that are given that are in harmony with the past,may be of Divine origin,and the ones that conflict with it wouldn't be.

476 Q-Would the enlargement or development of a principle,be identical with the doctrine of the same principle before it was enlarged or developed? A-The constitutional principle upon which the church is founded is the continued revelations,and if it did come that they didn't have any,the denial of it would be a denial of the doctrine. We believe in continued revelation in other words,and that was the doctrine of the old church,and is the doctrine of the re-organization.

477 Q-That is the claim or position of the re-organized church,as you have stated it? A-Yes sir.

478 Q-A doctrine of continuing developing revelation? A-Yes sir.

479 Q-Is that not also the doctrine of the Utah church? A-Well I don't know as they have had any.

480 Q-I say,-the question is,-is that not the doctrine of the Ytah Church also? A-I know they claim,-

48I Q-Who claims? A-I know the Utah Church claims or its Presidency does,for I heard him make this statement "I am not a prophet or son of a prophet",and I never heard of a revelation from him,or saw one that purported to come from him.

482 Q-Answer the question,-is it not also the claim of the Utah Church A-What?

483 Q-This doctrine of developing revelations. I asked you if that

was not alsoa claim of the Utah church. You stated that it wasa doctrine and belief of the re-organized church,-this doctrine of continuous developing revelations,and I ask you now if that is not also the doctrine of the Utah Church? A-They may claim that they believe in revelations,but they never claimed that I know anything of that they received them I never seen or heard of a revelation that was published by them that they claimed had been received by them. I never heard of their publishing a revelation authoritively,that had been received by them,as they claimed.

484 Q-Is it not a fact that the Utah Church bases itself upon the revelations received at Nauvoo,and prior to the assembling of the church at Nauvoo? A-I know them claim to be the continuing church.

485 Q-Based upon the Nauvoo church? A-Yes sir,and the book of Mormon and the bible.

586 Q-And the book of covenants? A-Yes sir,and the book of Mormon and the bible. They claim that as the foundation of their faith,-that is I suppose they do,for I have heard so,and I never heard anything to the contrary.

487 Q-You have spoken about having enlarged what was done in 1852 at the re-organization? A-Yes sir.

488 Q-Now was this not done,-a revelation was passed that the re-organized church would take the bible,the book of Mormon and the book of doctrine and covenants as the basis of its faith?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immaterial,not the best evidence,and not cross-examination. A-Yes sir.

489 Q-That was done? A-Yes sir.

490 Q-What book of doctrine and covenants did it refer to? A-It referred to the one in existence,the only one in existence that had been issued by the original church.

491 Q-This 1845 edition? A-They received that for just what it purports to be.

492 Q-It was this edition of 1845? A-They did not receive all that was written in that as standard.

493 Q-Did they make any exceptions in any thing? A-Yes sir.

494 Q-Did they make any exceptions of record,-did they do that by the records? A-It was generally understood that they received that which was revelation,and that which was not revelation they did not accept. They did not claim that it was all revelation.

495 Q-Is there such a resolution in the record of their conference of 1852,-which passed by the conference of 1852,-is there such? Is there such?

496 Q-Yes sir? A-Is there such a resolution to be found in the record of that conference of 1852? A-Yes sir there is a resolution which was passed, which recognizes the bible,the book of Mormon and the book of doctrine and covenants,-the standard book and excluding all other works. They did not recognize any other revelation that could not be found in these books as standards of the church.

497 Q-Was such a resolution entered in the minutes of the record of the conference of 1852? A-Yes sir.

Counsel for the plaintiff objects to the answer of the witness,and moves the court to exclude the same on the ground that it is immaterial and irrelevant and for the further reason that the books or record

itself has been introduced in evidence by the plaintiff,and is the best evidence.

498 Q-Did not the re-organized church at that time when it passed that resoption recognizing that book of doctrine and covenants,-did it or did it not recognize that book of doctrine and covenants of the 1845 edition when it passed that resolution? A-No sir they did not recognize it as the book of doctrine and covenants,but did not especially recognize that book.

499 Q-Did they take all that was in it in the endorsement? A-No sir.

500 Q-Then if that is the case,what book of covenants did it take? A-It took the revelations found recorded up to the date of 1844at the time of the prophets death,and no other revelation was accepted. I should say it took the revelations found recorded up to 1835,and no other revelation was accepted after that date,but the one of 1841,and nothing after that.

501 Q-Then haven't they since 1852 included in their book of doctrine and covenants everything that was in the book of doctrine and covenants of 1845? A-It is possible, It is likely,but I don't remember as to that either. I guess likely it has been but I do not remember as to that postively. I know now that they haven'tfor those letters are in there, and they were never accepted as authoritive by the re-organized church,and there is a letter in there I think speaking of the martyrdom of Joseph Smith,and that has never been recogniz ed as an authority or doctrine by the re-organization.

502 Q-Well now then,if you have got all of the book of doctrine a nd covenants of the 1845 edition in your subsequent editions of the books of the doctrine and covenants issued by authority of the re-organized church,is it not a fact that you don't believe everything that is in your book of doctrine and covenants? A-Nosir.

503 Q-Is it a fact that you do believe it? A-No sir,that is not a fact neither. Neither are facts. There are some things in there that are not accepted as the doctrine of the Church There is matter in there that the church has never declared upon. It is a matter of fact though that we receive these revelations,and what purports to be revelations for what they purport to be,and nothing more,and no others are standards or authority for the church. That is just the way that matter stands,-we accept these things,for what they purport to be,and they are not standards or authority for the church at all,for the church has never passed upon them that I am aware of.

504 Q-Has not the re-organized church declared solemnly in its conferences one or more times,that it recognized all that is in the book of doctrine and covenants as authoritive? A-No sir

505 Q-That is not a fact? A-No sir it is not a fact for there are several lectures in there that have never been accepted by the church or recognized as authority.

506 Q-What are they? A-Thet are on faith. They are the lectures delivered to a class at Kirtland,Ohio.

507 Q-Are they included in the book of doctrine and covenants now? yes sir,I presume so,though I saw an edition that did not have them in.

508 Q-When did you see that? A-I saw that since I came here to confer-ence.

509 Q-Did you not state in the outset of your examination in chief here,that the re-organized church was based upon the doctrines contained in the bible,the book of Mormon,and the book of Doctrine and Covenats? A-Yes sir.

510 Q-You stated that? A-Yes sir,and I state it now. Now if you will allow me to complete my answer I would like to do so.

511 Q-Very well Mr Briggs,I have no desire to interforex with your answerswhen they are responsive to the questions I ask you, and when you fail to answer my question I have a right to interrupt you and try to attract your attention to the fact that you are wandering from the subject. Now do you desire to answer any fuller than you have done already? A-Yes sir, I wish to say that the doctrine and covenants proper we recognize that as an authority,-that is the part in which purports to be the revelation,but you must remember that there are these letters and lectures in there,which do not purport to be revelations,and that part we do not recognize as being authority. We recognize them simply as containing good advice and being a guide to us,but we do not recognize themin the light of an authority binding upon the church as a law. We do not accept them as being a law or authority,but accept them simply for what they purport to be,the effusions of men by way of advice or instructions to the church,and in that light they are accepted,but in no other.

512 Q-Then do you accept anything in the book of doctrine and covenants that does not purport to be a revelation? A-In what way

513 Q-As doctrine,-do you accept it as a doctrine,-that is anything that does not purport to be revelations? A-No sir.

514 Q-As the law of the church,do you not accept it? A-No sir,not as a law to the church.

515 Q-I refer to yourself personally,-doyou accept it? A-No sir.

516 Q-What is the attitude of the church on the same question? A-The church does the same.

517 Q-Then you think as the church does on that question? A-Yes sir And on all others I hope.

518 Q-Do you know that there is a section in the book of doctrine and covenants on marriage? A-Yes sir,I am familiar with that

519 Q-In which it is stated that one man shall have but one wife,and a woman but one husband? A-Yes sir.

520 Q-You know that? A-I do.

521 Q-Well is that authoritive? A-It is recognized as one of the sections upon which the church has declared as authoritively.

522 Q-Well then how would you answer my question as to wheeher it is authoritive or not? A-That is what would be called a ritual of the church. It don't purport to be a revelation at all, but is simply what might be called a rival of the church.

523 Q-Well whatwould you say in reference to its being authoritive on the church? That is the question? A-It is one of the rules by which the church is governed . It is a ritual of the church,and one of the rules that governs the church on on the question of marriage.

524 Q-What would be your answer as to its being authoritive in the church? A-It is authoritive as a rule of government,but not as a revelation.

525 Q-Then is it an authoritive in the church? A-Yes sir,as a rule of action or ritual in the church for the regulation of marriages and it was so recognized by the church in solemn assembly.

526 Q-Then is it a revelation? A-No sir.

527 Q-Then why do you say the book of doctrines and covenants containing only the revelations? A-I did not say so.

528 Q-You swear that you did not say the book of Doctrine and Covenants only the revelations? A-I did not say that. The book of Doctrine and Covenants contains many things besides revelations. It contains the law of God in the form of revelations and in the form of certain rules for the government of the church which have been adopted by the church and received its approval inconformity with the laws of God as laid down in the revelations. We recognize the Book of Doctrine and Covenants as containing a part of the law of God,what is necessary for the guidance and government of the church.

529 Q-Then is it not a fact that you do not recognize this section here on marriage as a law of the church? A-We recognize it as I have stated repeatedly,-as a rule governing the church.

530 Q-It is not a revelation? A-No sir,and it don't purport to be a revelation.

531 Q-Then are not these other sections in here,which are not revelations,just as authoritive as that on that? A-On what?

532 Q-That section on marriage? A-No sir not all of them. Some of them are,and others are not, For instance there is a letter in relation to the martyrdom of Joseph Smith,written by Willard Richards and John Taylor. Now that has never been accepted by the church,but it published in the edition of 1841. Neither in language or in spirit has it ever been accepted by the church,but it is put in there simply as a historical account of the martyrdom of Joseph Smith,and for what it purports to be. You will observe that it was in the interim between the time of the death of Joseph Smith and the re-organization of the church that it was put in there by the rejected church.

533 Q-When this doctrine of monogamy,as I will call it,which permits a man to have but one wife,and a woman but one husband,you you recognize that as the law of the church? A-Yes sir.

534 Q-Although it is not a revelation? A-Yes sir,-it has been accepted as the law of the church.

535 Q-Then this doctrine of monogamy as set forth here,is a rule adopted by the church for its government,and not a law from God? A-It is not a law or revelation from God directly,but it is in harmony with revelations from God.

536 Q-It is in harmony you say A-Yes sir.

537 Q-But it is not a revelation? A-No sir,and it don't purport to be arevelation either,but we understand that it is an exposition of a revelation.

538 Q-An exposition of what you deem to have been revealed? A-Yes sir

539 Q-Now if a revelation were to be made from a recognized source, or to come from a recognized source,a revelation contrary to this rule for monogamous marriage,and advancing the doctrine of polygamy,would it,or would it not behold authoritive,or more authoritive than this rule set forth here? A-It would not.

540 Q-It would not? A-No sir.

541 Q-And why not pray? A-Because it would be rejected .

542 Q-Rejected? A-Yes sir,-by the church.

543 Q-But in answer to that? A-Sir.

544 QBut there is another question following that,and it is this,-what would the church do about it? A-It would be a false revelation,and the church would not accept it.

545 Q-It would be a false revelation even though it were adopted, and accepted by the church? A-Yes sir.

546 Q-That is your position? A-Yes sir, it would not make any difference it would be false, and the acceptance of it by the church would prove that the church was in apostasy.

547 Q-It would prove that the church would be in apostasy? A-Yes sir.

548 Q-That is your opinion is it not? A-That is the fact.

549 Q-To whom would it prove that? A-To any one that knew the situation. It would prove it to any one that knew the situation of the church.

550 Q-Now you have spoken of progressive revelations? A-Yes sir.

551 Q-You recognize that doctrine? A-Yes sir.

552 Q-And so does the re-organized church A-That is my understanding.

553 Q-Well according to the doctrine of progressive revelations there may be other revelations still on these subjects? A-Yes sir that is the principle upon which the church is founded.

554 Q-Now if one of these revelations should come, and prove to be the same doctrine as prevailed under which David and Solomon and others had plural wives, why would you reject it?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent irrelevant, and immeterial, not cross-examination and is untrue in fact, as no such a doctrine ever prevailed at the time referred to. A - What is that?

555 Q-Suppose a revelation came under the idea of progressive revelations, -suppose it came and it taught the same doctrine as it taught David and Solomon in the days when they had more wives than one, how would you regard it? A-David and Solomon it is declared in the book of Mormon, which is recognized as one of the first authorities in the church, -it is declared there in the book of Mormon that David and Solomon practiced whore-dom in having more than one wife, and having concubines.

556 Q-Then David and Solomon are rejected by the book of Mormon?
A-In that respect they are rejected, and they are denounced as being wicked, Their practice is denounced, and they are under the condemnation for it.

557 Q-Was it the same with Abraham?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immeterial, not cross examination, "and it is not true that Abraham had more than one wife".

558 Q-Was it the same with Abraham? A-Yes sir, -it is the same in the book of Mormon with all who practiced it.

559 Q-How would that be with reference to Jacob then?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as above set forth.
A-It would be the same.

560 Q-It would be the same with reference to Jacob? A-Yes sir.

561 Q-Well now at the out set of your examination Mr Briggs you mentioned as being present at the re-organization of the church at Beloit, -First I will ask you if you claim it was first organized at Beloit? A-That was the time they had the first general conference of the re-organization.

562 Q-And that was in what year? A-That was in 1852.

563 Q-In what month? A-In June 1852.

564 Q-And you stated there were several members of the old church

there? A-Yes sir.

565 Q.-Several men and women who had been members of the old church, you stated were there at the conference? A-Yes sir.

566 Q.-Now I want you to state,-and I think my friend over there will consider it a fair cross-examination,-at least I hope he will, consequently,all who were members of the old church,who were present on that occasion? A-I was notified last Saturday that they wished me to come here,and I thought this very question would be asked me,and so I tried to note down all these things I could remember for the purpose of refreshing my memory if it would need refreshing,andI have the notes here now. If you will accept it I can just put it in that way.

567 Q.Well that is not what I want,-I want to accept your memory,as that would be the best evidence? A-Well go ahead.

568 Q.-State all the persons,men and women,who were members of the old church,-that is had belonged to the church organization prior to the death of Joseph Smith in 1844,who were present at that conference held at Beloit,Wisconsin in the month of June 1852? According to the best of your knowledge and memory? A-Yessir. from my personal acquaintance and knowledge,now ~~for~~ what is your question?

569 Q.-I asked you to state from your own personal knowledge all the men an women who were present at that conference held at Beloit in the month of June 1852,who had been members of the old original church? A-Z,H. Gurley,-

570 Q.-Wasthat Zenas H.Gurkey? A-Yes sir.

571 Q.-Well go on? A-J.W. Briggs;Silas H. Briggs;David Powell;William Hartshorn;Polly Briggs;-I guess that is all the members of the old organization of the church that was present.

572 Q.-So that is allthat you can remember at this time? A-Yes sir, -no,there was John Williams,and Henry Pease. I don't remember any other men that were at that conference. There was others there of course but at this time I cannot remember who they were'. If their names was called off I might remember more, but I cannot frommemory recall anymore at this time I donot think. Now I am simpky givingyou the names of parties that were that I remember,but there was others there. As to the women or wives of the men whose names I have given you,I cannot remember their names.

573 Q.-Well are you assuming that the women ,or wives of the men that were there,were ~~wives~~ also? A-Yes sir.

574 Q.-How do you know that they were members of the church also ? A-Well I know they were.

575 Q.-Well you go on and give any of their names you can? A-Louisa Briggs,and there was Mrs David Powell,-I don't know her other name,nor Mrs William's name,-I don't remember her name either;there was Polly Briggs,but you gave her name,-Now that is all the names I can give you that were there at that conference,and I said there was others there,but I don't remember their names.

576 Q.-Now Mr Briggs you have maddean effort to call up in your memory the names and the number of persons who were there at that conference in 1852,who had been members of the church prior to 1844? A-Yes sir,of course as I said that was ~~xxx~~ not all that was there,but that is rhat that I can recall at this time

577 Q.-That is all you can remember at this time after having made the effort? A-Yes sir.

578 Q.-And after making this effort,allyou can recall is the number of eleven persons ,-the names of eleven perso s? A-Yes sir, but you must remember that ~~xxxx~~ there was the whole branch there at Beloit

but I cannot ~~ex~~ recall their names? There was a great many morethere of the old members than I have mentioned you must remember

579 Q.-How many were there in that branch? A-I don't remember how many, but there as quite a good many.

580 Q.-Now you say there was branch of the church there at Beloit at that time? A-Yes sir.

581 Q.-How could there be a branch of the church there at that time when the church was dis-organized? A-That branch was organized there in 1851 just as soon as this revelation~~s~~ came ~~to~~ directingthe saints to erect thd r altars and seek the Lord, and live their religion,and the L ord would bear testimony.

582 Q.-You don't know whether any ofthe members of that branch were members of the church at Nauvoo? A-I don't think so. I do not think they ever lived at Nauvoo any of them,-there might have been some of them lived in Nauvoo,but I think not,and they had been members of the church in the old days before the dis-organization. I know that to be the fact for I was brought up there amongst them.

583 Q.-Could you give me the names of any such? A-These are the names I have given you already,but there was a number of others,members of the branch that I don't remember,for I was young and small at the time,or a very young man,and so those are the only names I can call up now,but there were others connected with it

584 Q.-When was it organized? A-I said I did not know.

586 Q.-I believe you stated it was organiz ed in 1851? A-It was organized before that.

587 Q.-Well it was dis-organizedand then re-organized again in 1851,-is that it? A-The dis-organization effected them as quoroms but where ever there was a branch any where in the world,that kept ~~it act~~ district,the love of their religion they were still the church,where six or more of them members,maintained their organization. There was one for instance down near Alton, that Elder Green had charge o f,and it kept its organization from the time of the dis-organization of the church until the re-organization. It kept its local organization all the time

888 Q.-Who had charge of the branch you speak of at Beloit? A-Jason W. Briggs was the presiding elder of that branch at Beloit

589 Q.-Had he been so prior to 1852? A-Yes sir.

590 Q.-For how long a time? A-He had been presiding elder for years and years before that.

591 Q.-Was there any such an organization any where else ~~xxxxxxx~~ than at Beloit? A-Yes sir,several of them.

592 Q.-Where? A-There was branch organizations at Waukeshaw,but I d o not know the status of how it had been all the time along,but I do know in '51 after this revelation was given that that branch turned all over.

593 Q.-Who was at Waukeshaw? A-Well it was the branch there,-I don't know who belonged to it.

594 Q.-Who was the head of it? A-Well I could nd say who was the Presiding officer.

595 Q.- Was it William Smith? A-No sir,but I have the names of parties

584 Q – You do not mean to be understood here as saying there was a stake at that place that continued from 1844 up to that time? A – I say there was a church and branch organization that continued from 1844 up to that time – it was there from before that time in fact, – I can't say how long before 1844 it was established there, but it was some time before.

who lived there,but as I was not there I cannot recognize them.

596 Q-Where was William Smith's branch? A-Well William Smith came up in there,and preached for a time,and they recognized him,but he did not go to work and organize a branch as I understand it, but he was there as I understand it, preaching and teaching the doctrine of lineal priesthood when he came up there,and for some reasons they rejected him Now I was not connected with that in any way,and hence can only speak of it from hearsay,for I never met him there.

597 Q-Didn't the branch so called,of which you speak,and of which you say Jason W. Briggs was President,or which was led by him belong to the William Smith organization? A-Well they recognized William Smith as a preacher,but when he made some claims which they did not agree with,and then they got this revelation to reorganize.

598 Q-Well was not Jason W. Briggs one of William Smith's apostles? A-Well I rather think he was,but I could not say he was ordained by William Smith.

599 Q-Well was not William Smith,and his organization amongst the rejected of the church,-was it not included in thechurch that was rejected? A-William Smith was gathering up these old members of the church,and preaching lineal priesthood.

600 Q-That is not the question Mr Briggs,-you have not answered the question. I have asked you if his organization ,-the organization that recognized William Smith as its leader,was not that amongst the rejected of the church? A-Well no,for he was preaching amongst the scattered members of the old organ-ization,and gathering them together,and he came around teaching the doctrine as taught by his brother Joseph,and when he made some extravagant claims they simply denounced him at Beloit and Wankeshaw,and wouldn't have anything more to do with him.

601 Q-Who was it denounced him? A-Jason W. Briggs.

602 Q-Was not this organization you speak of,of which Jason W Briggs was the leader,at Beloit,Wisconsin,identified at one time with the Strang faction of the church? A-No sir.

603 Q-Do you swearthey were not? A-No sir,I don't thinkthey were. They had this association with Strang. A man by the name of Phineas Wright,came from Voree,-that was the Strangite headquarters,-and he put the claim forward for Mr Strang,-he put forward the claim,for I remember it as well as if it was yesterday,-that Strang was the successor of Joseph Smith,and my brother said"well it is all right if he is",and he said "well let us take your name and if he is carrying on the work just as Joseph did,we have no objection to it". Now that was all there was to it,for I remember distinctly of this man Phineas Wright coming up there,and then took place. Of course I do not pretend to give the exact identical words that were used,but it was substantially as I have stated it. There was no vote taken,or anything of the kind to receive them,-that is to receive my brother in among the Strangites, and he never was a Strangite,unless that would make him one, which is not the case,according to my way of looking at it.

604 Q-Was he ever a William Smithite? A-No sir.

605 Q-Then he was never at any time a Strangite either a Strangite or a William Smithite? A-No sir. He recognized William Smith as teaching the gospel. He taught lineal priesthood,and he was the first man that ever taught that there.

606 Q-He taught the doctrine of lineal priesthood,-that is the doctrine of lineal descent as applied to the priesthood? A-Yes sir and that was the first time that that doctrine had ever been taught in that section that I know anything of.

607 Q-Well didn't he teach some other doctrine there that was objectionable? A-Well I don't know about that.

608 Q-Don't you know it is a fact that he did teach some other doctrine there at that time that was objectionable? A-Well yes he did teach something that they did not approve,for that is the reason they rejected him. After this time this revelation was given,and in it the doctrine of lineage was advocated,and it was accepted by the re-organization.

609 Q-By whom was William Smith rejected? A-Well everybody that knew him,and worked with him,-His co-adjuators so to speak.

610 Q-Who was it reje ted him? A-Those that had before that time accepted him as a minister.

611 Q-That was by this re-organization in 1852? A-Yes sir. The minutes of the resolution are there where they rejected all who pretended to be successors of Joseph.

612 Q-By whom was Strang objected to? A-This resolution covered all kinds,and rejected all who pretended to be prophets as pre-tenders,and denounced them.

613 Q-Well now,is it not a fact that the Conference of 1852 was made up of men who belonged to the William Smith organization,and men who belonged to the Strang organization,and men who had belonged to the Briggs organization,and men who belonged to other scattered organizations? A-No sir,for my brother Silas was one who had never united with any of these organizations He had never united with any of the different factions at all for he always held to the one view to the day of his death, and never joined any of them. They had some of them been associated,-that is they had recognized them,and supposed they were carrying out the ends of the re-organization,before they knew of the rejection,when they had always stood on the principles of the doctrine as taught in the original church and while they attended the meetings of the different factions or organizations,they were not what you would call either Strangites,or William Smithites,or any of the rest of them,-they were simply people who had remained steadfast in the faith and did not recognize any of these different factions as being the true church,although they might from time to time attend their meetings. My brother Silas was one of these. Now there was Zenas H. Gurley who had been with the Strang faction,and he denounced Strang when he saw that he was making innovations,-he denounced him as an imposter.

614 Q-Wellnow as to the fact as to whether Strang did make innovations or William Smith made innovations,-do you mean that the charge that these innovations had beenmade,was made by Jason W. Briggs? A-Nosir.

615 Q-By whom was it made,-the charge made? A-By a generl resolution in the cofference it is asserted that he had made innovations and is denounced as an imposter,-they were denounced as im-posters,-all who make innovations in the doctrines of the church,or in practice.

616 Q-That appears by resolution? A-It was decided by a resolution of that conference to be the fact.

617 Q-What conference was it? A-The conference in 1852,and that resolution recognized all members who had ever belonged to the

old organization as being eligiblex to membership in the re-organization,-that is all members who ha d not vitiated their standing by overt acts against the xxx church.

618 Q-When did thet take William Smith in as a member of the church? A-I don't remember.

619 Q-Then you do not know when he came into the church? A-No sir.

620 Q-Did he ever make any apology for his innovations,or confession or amends for his innovations? A-I don't remember how he came in. I was not there when he came in, so I cannot tell you anything about that.

Counsel for the plaintiff moves the court to exclude thexquestions and answers regarding the matter last enquired into,on the ground that it is incompetent,irrelevant and immeterial,not proper xxxx cross-examination nor the best evidence.

It being impossible to conclude the taking of the depositions herein on this day,the further taking of the same is continued by the Notary Public taking same until to- morrow morning at the hour of 9,30 A.M.,xx thexsame being Tuesday April 19th, 1892.

Now on this Tuesday April 19th,1892 at the hour of 9,30 A.M.,come the parties hereto,as aforesaid,and the further taking of the depositions herein was continued,pursuant to adjournment.

E.C, Briggs resuming the stand,his cross-examination wasxn continued,as follows by Mr Southern,-

621 Q-Mr Briggs you spoke yesterday in your testimony of William B. Smiths organization? A-Yes sir.

622 Q-Now I am not sure,but we askedyyou whether that stake or organization there at Beloit,was in any manner connected with William B. Smiths church,or in any way under his over-seership;and now I would ask you this morning,what were the facts as to that?

Counsel forthe plaintiff objects to the question asked the witness on the grounds and for the reasons that it is/irrelevant and immeterial and not xcross examination.

623 Q-What are the facts about that Mr Briggs? A-The facts are simply these,-that there was a branch of the church there and William Smith came up there among them preaching the doctrine of the church,and while therexthey accepted him as a minister,and after he left there some developments were brought to light,the consequence of which was,that they rejected him as a spiritual teacher.

624 Q-Of whom do you speak now,-the conference of 1852,or the local stake at Beloit? A-The local branch at Beloitx.

625 Q-The local branck I should say? A-Yes sir,it rejected him as a spiritual teacher.

626 Q-When was that? A-That was in '81 There was a large branch there at that xx time,and I have only given you a few names of the members xxxxxx that belonged to it,-I can't recoll ect them,-I cannot bring them to memory now as I would like todo, and would if I could. That was quite a long while ago,but I knew these names that I gave you,-that I knew the parties personally.

627 Q-Do you know how he was received by the stake,-in what capacity when he came there? A-How who was?

628 Q-Who William B. Smith was received by this stake at Beloit when he came up there? A-How he was received?

629 Q-Yes sir,-in what capacity? A-Why Ihave stated he was received as a minister.

630 Q-What order in the ministry was he received in? A-Why they recognized him,-well I don't know about thatx,but I know it was as

a minister.

631 Q-What organizationx, if any, xxxx

as members of the church.

644 Q-As members of the re-organized church? A-Yes sir.

645 Q-Now I am talking of a time prior to the organization in 1852, and after what you call the dis-organization in 1844? You understand that? A-Yes sir.

646 Q-And I want to know if there was any bond of union between the different branches at the different places? A-No sir.

647 Q-There was not? A-Not that I know anything of.

648 Q-They all stood seperately, singly and alone? A-Oh yes,-I have not much of an idea in relation to that, for all that I know is hearsay, as I was young then, and it has been so long ago that I may have forgotten some of the things in relation to that I heard then but it is my recollection now that they all stood by themselves during that period. They might, and doubtless were, acquainted more or less, but no bond of union by virtue of which they met in conference existed.

649 Q-Now you have testified as to your competency on these questions, and I will therefore enquire of you, how many branches existing at that time,-how many branches were existant at that time that is prior to 1852? A-Well I don't know.

650 Q-And subsequent to 1844? A-I do not know.

651 Q-How many branches according to your best recollection or knowledge there was in existence during that time? A-I do not know.

652 Q-You say you do not know? A-Yes sir,-I do not know. can't say.

653 Q-Now state to me what you do know as to the branches you do know of? A-Well next to the Beloit branch, I know more particularly the Waukeshaw branch.

654 Q-Well there was the Waukeshaw branch? A-Yes sir.

655 Q-Now what other? A-The Beloit Branch.

656 Q-Well what other one? A-Well personally I do not know anything about it, only I heard that there was others in the southern part of the state of Illinois,-that is hearsay however, for I do not know anything about it personally.

657 Q-Do you know whether or not there was a William Smith branch at that time? A-When William Smith came up there I do not think he had a branch attached to him,-I don.t think he has what could be called an organization. I think that was a subsequent affair, but I had nothing to do with it.

658 Q-Well if it was a "subsequent affair", tell what time it had its inception? A-It was while he was there, and going to and fro from different places, for sometimes he was in Illinois, and sometimes at Waukeshaw, and sometimes at Beloit.

659 Q-Well now I want to enquire if you can give me about the time of the inception of the branch over which he subsequently presided? A-Well I couldn't do that, for I don.t know anything about it.

Counsel for the plaintiff objects to the line of examination indicated by the foregoing question, and all the answers thereto, on the ground that it is irrelevant and immeterial and not cross-examination, and the witness is not competent to testify

660 Q-These are all the branches you can call to mind,-the one at Waukeshaw, the obe at Beloit,-these are all you can call to mind that existed at a time prior to 1852? prior to the assembling of the conference in 1852? A-No sir, for there was one at Blanchardsville,-I think that is the name of the place.

661 Q-There was another branch at that place? A-Yes sir, I think that was the name of the place,-It is now known as Blanchardsville

662 Q-There was a branch there? A-Yes sir,that is my recollection.
663 Q-Who was the head of that branch? A-Well I think Gurley was probably its President,or Cyrus Newkirk. That is my recollec -tion that it was either one of them but I don't know postive -ly which was its head.
664 Q-Now there was another one was there not,somewhere,prior to 1853 A-Yes sir there was several according to my understanding I have of it,but I don't know where they were,-their location is something I cannot tell you.
665 Q-About how many members were there in this Waukeshaw branch? A-I could not tell you that.
666 Q-About how many in the Beloit branch? A-I could not tell you. I have given you a partial list of the names of the parties that belonged to it,but I couldn't tell you all who belonged to it,or even the number of members there was in it. Now since Saturday I have read over a list of names ofthe members of that branch,and I have prepared a list of names of the ones I personally know,-that is the ones I remember at this time,and I can read it overto you if desire me to do so.
667 Q-Well it is not necessary at this time. Now will you answer this question,-whether William Smith came to the Beloit branch at the time you speak of his coming there,-when he came there at that time,did he not come,and was he not received as his brothers successor? A-No sir.
668 Q-You swear he was not? A-He was not.
669 Q-Was he not received as the prophet of the church? A-After he came there,-
670 Q-Yes sir? A-I was not there at the time he came there,and I never saw him there,and so I do not know of my own personal knowledge how he was received, What I said in relation to his being there is from what I know from the association ,for I never met him until afterwards.
671 Q-What was he doing there? A-I can't say as to that either for I did not see him there at that time,but if you want what I heard about it,and I do not think there is the least doubt but that is true,-he came there preaching the doctrine of lineage,the same as we are preaching now,and it culminat -ed finally into an organization but just where it had its inception I could not say,but I think it was in Illinois.
672 Q-And afterwards I understood you to say that the church at that point,rejected him,or some of his doctrines? A-Yes sir. It rejected him.
673 Q-Rejected them in some way,-that is his doctrines or some of them? A-Yes sir. He came there preaching the doctrine of lineage and that was rejected,and some time afterwards he conceived theidea of re-organizing the church,and it resulted in effecting a partial organization,and some of the members there in Beloit became identified with that organization as such,and then soon afterwards some developments arose,and the result of these developments were that they withdrew from any fellowship with him.
674 Q-What were those developments if you know?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is in competent, irrelevant and immeterial,and not cross-examination
A-I cannot speak of them as knowing them of my personal know ledge, only just what came under my personal observation, for as I told you I didn not meet him at that time.

675 Q-You were a member of the church at that time? A-Sir
676 Q-You were a member of the church there at Beloit at that time?
A-At the time when Mr Smith was there?
677 Q-Yes sir? A-Not when Mr Smith was there,-he was never there when I was there.
678 Q-Then you state you do not know the causes of difference between that church there and William Smith that caused them to reject him?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial,and not cross examination.
A-He made the claim of being President of the church.
679 Q-And is it not a fact that the head of that church there at Beloit at that time,Jason W Briggs,recognized that claim?
A-No sir.
680 Q-He did not? A-No sir, When Jason W. Briggs recognized him it was when he was making the claim that,-what is the word I want I can't get it,-
By Mr E. L Kelley,-
681 Q-Temporary,-? A-Yes sir,that he was temporarily the head of the church until the legal heir came forward.Now that was the position Mr Smith took,-that when the legal heir came forward and claimed his inheritance,and that was the son of his brother,he was to be recognized as the legal heir,and he was representing him until that time,and we recognized and accepted him as such.
682 Q-Recognized who as such? A-Recognized William Smith as such until the legal heir to the Presidence came forward.
By Mr Southern,-
683 Q-What date was that? A-When he came first it was in 1850 probably. I was not there at the time as I have before stated but that was the time I understand he was there at Beloit.
Counsel forthe plaintiff objects to the last question asked the witnessand the answer of the witness to the same,and moves the court to exclude the answer from the record on the ground that it is incompetent,irrelevant and immeterial,not cross examination and hearsay.
684 Q-Now as a matter of fact was not Jason W. Briggs one of William Smiths apostles in 1851?
Counsel forthe plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immeterial,and not cross examination.
A-I cannot say.
685 Q-Do you say he was not? A-He may have been, I think he was chosen as one. Well I don't say that either,for I think it was an high priest or something like that. I know he held an office of some kind.
686 Q-You do remember that? A-Yes sir.
687 Q-And had not William Smith prior to that time been preaching and teaching the doctrine of plurality of wives? A-Well I do not know that.
Counsel for the plaintiff objects to the question and the answer of the witness,and moves the court to exclude both from the record for the reason that they are irrelevant,incompetent and immeterial,and not cross examination.
688 Q-I believe you stated that Zenas H. Gurley was at the conference of 1852 at the time of the re-organization? A-Yes sir.
689 Q-From what branch did he come? A-Blanchardsville.
690 Q-From the Blanchardsville branch? A-Yes sir that is what it

475 Q-You were a member of the church at that time? A-Sir
676 Q-You were a member of the church there at Beloit at that time?
A-At the time when Mr Smith was there?
677 Q-Yes sir? A-Not when Mr Smith was there,-he was never there when I was there.
678 Q-Then you state you do not know the causes of difference between that church there and William Smith that caused them to reject him?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial,and not cross examination.
A-He made the claim of being President of the church.
679 Q-And is it not a fact that the head of that church there at Beloit at that time,Jason W Briggs,recognized that claim?
A-No sir.
680 Q-He did not? A-No sir, When Jason W. Briggs recognized him it was when he was making the claim that,-what is the word I want I can't get it,-
By Mr E. L Kelley,-
681 Q-Temporary,-? A-Yes sir,that he was temporarily the head of the church until the legal heir came forward.Now that was the position Mr Smith took,-that when the legal heir came forward and claimed his inheritance,and that was the son of his brother,he was to be recognized as the legal heir,and he was representing him until that time,and we recognized and accepted him as such.
682 Q-Recognized who as such? A-Recognized William Smith as such until the legal heir to the Presidence came forward.
By Mr Southern,-
683 Q-What date was that? A-When he came first it was in 1850 probably. I was not there at the time as I have before stated but that was the time I understand he was there at Beloit.
Counsel forthe plaintiff objects to the last question asked the witnessand the answer of the witness to the same,and moves the court to exclude the answer from the record on the ground that it is incompetent,irrelevant and immeterial,not cross examination and hearsay.
684 Q-Now as a matter of fact was not Jason W. Briggs one of William Smiths apostles in 1851?
Counsel forthe plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immeterial,and not cross examination.
A-I cannot say.
685 Q-Do you say he was not? A-He may have been, I think he was chosen as one. Well I don't say that either,for I think it was an high priest or something like that. I know he held an office of some kind.
686 Q-You do remember that? A-Yes sir.
687 Q-And had not William Smith prior to that time been preaching and teaching the doctrine of plurality of wives? A-Well I do not know that.
Counsel for the plaintiff objects to the question and the answer of the witness,and moves the court to exclude both from the record for the reason that they are irrelevant,incompetent and immeterial,and not cross examination.
688 Q-I believe you stated that Zenas H. Gurley was at the conference of 1852 at the time of the re-organization? A-Yes sir.
689 Q-From what branch did he come? A-Blanchardsville.
690 Q-From the Blanchardsville branch? A-Yes sir that is what it

was called,but prior to that time I think it had been called the Yellowstone branch.

691 Q-What was it called besides Blanchardsville? A-I think Yellow -stone.

692 Q-Was there not another name for it? A-Not that I know of.

693 Q-Was that not the branch they called Zerahemliah? A-Not that time

694 Q-I know but was it not afterwards? A-Yes sir,that was in the re- organization.

695 Q-Is that the same one? A-Yes sir,the same.

696 Q-Was that,or was that not known as a Strangite Branch? Counsel for the plaintiff bbjects to the question asked the witness on the ground and for the reason that it is incompetent,irrel -evant and immeterial,and not cross examination. A-What is that?

697 Q-Was or was it that branch known as the Strangite Branch? Possibly it may have been known that way. It was raised up by Gurley,and some one else,-I don't know who now.

698 Q-You say some one else? A-Yes sir,but I don't remeber now who it was.

699 Q-Was that some one else H.B. Brown? A-I couldn't say,for I never knew him there, I used to live at Zerahemliah,and I never knew him there,or knew of his having been there myself,but I think he had been there.

700 Q-By whose authority did Gurley come to the conference of 1852? A-Why he came there as the rest of them did.

701 Q-Inwhat capacity? A-As a delegate.

702 Q-From what place? A-From this Blanchardsville or Yellowstone branch. He and Elder Powell came as delegates from that branch.

703 Q-Now Mr Briggs,you say also,that Silas H. Briggs,was there? A-Yes sir.

704 Q-From what branch did he come,if any? A-He never came from any branch.

705 Q-Hedid not? A-No sir.. He did not have to come from any branch, for he was a member of the old organization.

706 Q-Therefore he did not come from any branch? A-No sir,not as a matter of necessity. Any one who belonged to the old organi- zation had a right to sit in that conference as well as the delegates from branches.

707 Q-And David Powell,-you say he was there also? A-Yes sir.

708 Q-And he came from Blandhardsville also? A-Yes sir. He lived in Beloit,-that was his home,-but he came there from a mission at Yellowstone or Blanchardsville as it id called. That is how he happened to be at Blanchardsville at that time.

708 Q-Now in what capacity did he appear at the conference? A-Ad a delegate,-I should say as an Elder,-

710 Q-Wait I desire to ask you this question,-what did he represent there at the conference? A-He represented the organization, for he was a member of the branch there.

711 Q-What organization did he represent?if any? A-The branch there as a branch.

712 Q-What branch? A-The branch at Beloit. He lived at Beloit but at that time he was out on a mission at Blanchardsville.

713 Q-Now in what capacity did he appear at the conference? A-He appeared as an elder reporting his mission at Blanchardsville in connection with Elder Gurley.

714 Q-From what point,and whom did William Hartshorn represent? A-

He resided there.

715 Q-Where? A-In Beloit.

716 Q-What was he in the conference of 1852? A-I could not say. I couldn't say that he was more than a member of the branch there, but he may have been an elder, but if he was I am not apprised of the fact, still he may have been.

717 Q-Do you know how he came to be in that conference? A-He was a member of that branch.

718 Q-Would that fact give him a membership in that conference? A-Yes sir.

719 Q-Were all then members of that branch, members of that conference A-Yes sir.

720 Q-They were all members? A-Yes sir.

721 Q-Well what so constituted them members of that conference? A-By virtue of being members of the church.

722 Q-So then at that time, any member of the church, was entitled by vitue of that membership, to become a member of of that conference? A-Yes sir.

723 Q-Was that a law of the church at that time? A-Yes sir.

724 Q-It was a law of the church at that time? A-Yes sir, they had a voice in the conference, -all the members did.

725 Q-Well what else did they have in the conference besides a voice? A-Why he had a right to call the priveleges of the conference, -as a member of the church he had that privelege. Now I am not certain whether William Hartshorn held any office in the church at that time or not. I am not positive as to that, he may have been an elder, but I am not positive as to that.

726 Q- Well is it a fact that the law prevailing at that conference as to membership, admitted any one to the priveleges of the conference? Is that a fact? A-Yes sir.

727 Q-Any one who was or had been a member of the old church or any of its branches? A-Yes sir.

728 Q-Is that the law of the re-organized church at the present time? A-Yes sir.

729 Q-It is the law of the re-organized church at the presne time? A-Yes sir, with the exception that they have certain privelege now that were not recognized then as delegates, in the sense in which they are appointed delegates, and then we did not have any such a regulation.

730 Q-You have stated then, that at that time all the members of the church were entitled to membership in the conferences, and were entitled to all its priveleges? A-Yes sir, and there were some of them called ex-officio officers. Tney were not known then as we have them now, but I didn't know any then.

731 Q-Well I understood you to say, and if I am not correct I would like for you to correct me, -that all the members of the church, were by virtue of their membership, entitled to a place in that conference held in 1852? A-Yes sir they were entitled to all its priveleges.

732 Q-And they could vote? A-Yes sir.

733 Q-Well you have stated it in shoter form by saying they had all its priveleges? A-Yes sir, all the priveleges belonged to them.

734 Q-Well now then, if, at the present time your church, the re-organized churchhas twenty five thousand members, might all these twenty five thousand members be admitted to your conferences here, as members entitled to participate in the conferences? A-Yes sir.

735 Q-Could they have attended at the conference recently held here

in Independence? A-Yes sir.

736 Q-They could all have attended? A-Yes sir,if they saw fit to do so,~~if not it is~~ but it is not very likely that the whole membership of the church will ever desire to attend a conference at one time.

737 Q-That priveleges Inheres to every member of the church? A-Yes sir,to some as officers,and to others as members of the church

738 Q-And the whole twenty five thousand would have been entitled to all the priveleges? A-Yes sir.

739 Q-And you state that to be law of the church now? A-Yes sir.

740 Q-Of or on what is a conference of the re-organized church,as held at the present time composed?

Counsel for the plaintiff objects to the question asked the witness for the reason andon the grounds that it is incompetent, irrelevant and immeterial,not cross-examination and does not call for the best evidence of the fact sought ~~for~~ to be proven.

A-What is that?

741 Q-Of what is a conference of the Re-organized Church of Jesus Christ of Latter Day Saints composed at the present time?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as set forth in the last preseding objection.

A-Its is composed of its members.

742 Q-Of all its members? A-Yes sir, all its members.

743 Q-Can they all vote? A-Some of them can vote,-the least child that is baptized has a right to come in there and sit there and take part in the proceedings.

744 Q-Are there any credentials required of parties who present themselves as members of the conference? A-Of delegates representing so many votes there is.

745 Q-As delegates they are required to present credentials? A-Yes sir identifying them as the parties they purport to be.

746 Q-Now are not conferences based on delegates? A-Yes sir and members. You would have noticed in this late conference held here if you had attended it,there was some things passed there and voted upon.-

747 Q-By every body who was present? A-Yes sir,all who were pleased to vote.

748 Q-Well in forming a conference,is it not done by committees on organization? A-Well some times that it is done,-generally I may say they have a committee.

749 Q-Are not credentials brought in and submitted to the committee on organization?

Counsel for the plaintiff objects to this whole line of examination on the ground and for the reason that it is incompetent,irrel-evant and immeterial,not cross examination,nor calling for the best evidence.

A-When a vote is taken in the conference of the present re-organizi~~t~~on church,a yea and nay vote is taken,and that is restricted to ~~rejected to~~ ex-officio officers and delegates.

750 Q-Then the members of the church who are not ex-officio officers and delegates are not entitled to vote? A-No sir,not on particular occasions.

751 Q-Well is it not a fact that in such a case they would not be entitled to all the priveleges of the conference? A-No sir.

Counsel for the plaintiff objects to the question asked the witness and to the answer of the witness on the ground and for the reason that

it is incompetent,irrelevant and immeterial,not cross examina tion nor the best evidence,and moves the court to exclude the from the record the answer of the witness for the foregoing reasons.

752 Q-But it is not a fact that that is the system that prevailed in I852? A-What is that?

753 Q-That is not the system that prevailed in the reorganization in I852? A-Well that was because the arrangement hadn't taken then,and those that constituted the conference at that time were the ones that assembled there,and things had not been systemized then as they have been done since,-and of course any thing like that is merely a matter of detail and has noth -ing to do with the matter of doctrine or anything of that kind.

754 Q-Well I will get to that later on. Now in the organization of that conference of I852,was there any committees on delegations?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel -evant and immaterial,and not cross exami ation or the best evidence.

A-I think not.

755 Q-Or on membership? A-I could not say.

756 Q-Well I am asking for your best impression if you have not positive knowledge? A-I could not say,for I don't remember hear- ing any thing about it.

757 Q-So then it is a fact that any body who came and claimed to hold a membership,-or I should say,who came and claimed to hold the faith of the church,was admitted to membership in the conference?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,ir- relevant and immaterial,and not cross-examination. A — Yes, sir, and it was the same then as it is now in that respect.

758 Q-But I believe you stated that the difference between now and then was that now there are certain members that are permitted to vote on a yea and nay vote,and that then that distinction was not made? A-What is that? How is that?

759 Q-I believe that you stated that the difference between then and now is that at that time they were permitted to vote on all questions that came up,but now the lay members are not permitted to cast a yea and nay vote on certain questions? A-There was no such a thing known that we know anything of,- there was no such a thing known in that sense., for there is occasions now when they can all vote as well as then.

By Mr P.P. Kelley,-"I move to exclude the last thirty questions and answers for the reason that they are incompetent,irrelevant and immaterial and not cross-examination".

By Mr Southern,-"

760 Q-To what organization did Polly Briggs belong at that conference of I852?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is irrelevant, incompetent and immaterial and not crossexamination.

~~761~~ ~~Q-~~ A-She belonged to the church.

761 Q-At what point? A-She was a member of the old organization.

762 Q-To what organization did she belong,or was she a member of at the time she was admitted to that conference?

Counsel for the plaintiff objects to the question on the geounds and for the reasons as set forth in the last preceding objection

A-I do not think she had united with the reorganization at that

time.

763 Q-How is that? I did not quite catch that? A-I say I do not think she had united with what was called the reorganization at that time?

764 Q-What branch did she belong to,if any?

Counsel for the plaintiff objects to the question on the grounds and for the reason that it is incompetent,irrelevant and immeterial,and not proper cross examination.

A-The branches there used to be the old organization,-the same as it had been all the time.

765 Q-Did she belong to any branch at that time? A-She had formerly been a member of that branch there at Beloit,but when the organization,I should say re-organization was effected the old branch became merged in the re-organization,and some of the members had not come into what was called the re-organization at the time that conference was held,-that is some of the members had not become identified with the re-organization at that time,and the proper branch under its direction.

766 Q-So then you say she was admitted to that conference but did not belong to that branch? A-I do not think she took any partor voice in that conference,-she held her self aloof,as she hadn't yet identified herself with it,-that is with the movement of the re-organization.

767 Q-She did not take any voice in it?-~~that is with the movement of the re-organization~~ A-No sir,I know she did not for that reason.

768 Q-If that is the case why did you give her her name as the name of one of the parties that waspresent and participated ?

A-I did not.

769 Q-You didn't? A-No sir.

770 Q-Well if you did not,what did you do? A-I gave her nameas one of the members of the old original church who was present,-there was nothing said about participation I think.

771 Q-Well I beg your pardon,for if that is what you said I certainly mis-understood you? A-The question was as to how many that belonged to the old organization was there,and I gave my mothers name as one,for she was formerly a member of theold organization.

772 Q-Well you gave the names of eleven that I thought you said were members of the new organization as well as the old. Now there was John Williams,-where did he belong? A-Well he was one of the members of the old organization who continued with and be-longed to and was identified with this new re-organization.

773 Q-What branch did he belong to?

774 Q-Well what one was that? A-That branch there.

A-The branch there at Beloit. My impression is that it was called the Newark branch,but it was there in the town at Beloit.

775 Q-Why was it called the Newark branch if it was in Beloit?

A-Well Newark was the name of the township.

776 Q-Now what did Henry Pease belong to? A-That branch.

777 Q-There at Beloit? A-Yes sir.

778 Q-Was Eliza Briggs also a member of that branch?

Counsel for the plaintiff objects to all the foregoing questions on the line of enquiry indicated to the last question,and moves the court to strike both from the record on the ground that they are irrelevant and immeterial and not crooss examination.

A-Yes sir,I think she was.

779 Q-Did she haveany voice in or participate in the deliberations?

A-I presume she did. You have a copy of the resolutions and

proceedings of that conference,and I presume she was there and took part.

780 Q-Mrs David Powell you also said was there? A-Yes sir.
Counsel for the plaintiff objects to the question asked the witness and moves the court to strike out the answer for the same,for the reason that it is incompetent,irrelevant and immeterial and not cross examination.

781 Q-In what capacity was she there? A-The same as the reat of them.

782 Q-Did she participate inthe procedings? A-Yes sir.

783 Q-Is the same thing true of Mrs Williams?A-Yes sir.
Counsel for the plaintiffx objects to the last two questions asked the witness,and the answers to the same,for the reasons above set forth.

A-I think all the branch there was associated with the reorganization at that time except my mother,for at that time she did not give in her name.

784 Q-Now you have spoken of all these parties,-eleven of them I believe,as having been members of whatyou term the old church? A-I mention those as the names of the ones that I remember were there personally,but that is only a few of the many who were there. I have a list of nearly two hundred names here of persons that were connected with the old organization that I was personally acquainted with,and I can read them all off to you if you want me to do so.

785 Q-Well I am not after that at the present time,-I am asking you what you knew as a matter of memory? A-Well sir as I understand it that is just what I am here for to tell you what I know.

786 Q-You certainly have a ~~knowledge~~ thorough knowledge of what you are here for,for that is just it. You have stated that there was eleven persons there who took part in and participated in that conference who were members of the old organization,and now I will ask you how you know they were members of the old church prior to 1844? A-Well my mother was baptized by brother Elder Cox.

787 Q-Before or after you were born? A-Well sir it was in '43,-she was baptized in the fall of 1843.

788 Q-You were then eight years old were you not? A-Yes sir,nearly eight years old.

789 Q-How do you know she was baptized? A-Well she was baptized at Wankeshaw,and when she came home from there,she came home a member of the church.

790 Q-How do you know that? A-Well,that is what she claimed,and she was recognized after that as a member of the church.

791 Q-How do you know that Zenas H.Gurley was a member of the church prior to 1844? A-By the record and his own statement,but I did not see him baptized.

792 Q-Do you know it of your own personal knowledge? A-No sir,only from what hex stated to me. I did not see him baptized,nor did I see my brother baptized.

793 Q-But do you know of your own personal knowledge that your brother Jason W" Briggs was a member of the old church? A-All I know that,-all I know about it is thathe came home a member of the church,and said that William O. Clarke baptized him,for I heard him say he baptized him.

794 Q-Well how do you know it? A-Well he came there as anpriest,and had a certificate as an elder,but I did not see him baptized

795 Q-Do you know of your own knowledge that he was ever made an elder A- I know he had the license and preached.

796 Q-Did you ever see him made an elder? A-No sir. Yes sir,I have seen him ordained I remember that.
797 Q-Has he been ordained more than once? A-Yes sir,he was ordained an elder,and afterwards an high priest.
798 Q-Did you see him ordained an elder in the old church? A-No sir.
799 Q-Did you ever see him ordained an high priest any where? A-No sir.
800 Q-Your brother Jason W. Briggs I mean? A-No sir,I never did.
801 Q-Was there any high priest there at that converence in 1852? A-Yessir.
802 Q-Who was it? A-My brother was recognized as an high priest. I don't know who else there was,but he was recognized as one.
803 Q-You don't know of any one else who was an high priest? A-No sir, I don't remember of any others. I did not know many that were there,and I have only given you a few names,-the names of a few that I was personally acquainted with.
804 Q-Now you say your brother Jason W. Briggs was recognized as an high priest,-by that answer do you mean that he was an high priest? A-Well I have told you that I did not see him ordai-ned,but he was recognized as one,and as far as my knowledge goes that is a fact that has never been questioned. He was ordained two different times,but I don't know when it was for I was not present. I know in 1853 he was there at the con-ference,and declared that he was an high priest,and it was not decided what ordination xx xxx it was but he was ordained by Marks,and was ordained again at Beloit,the time he was there connected with the branch,but I was not present either time,and what I tell you is simply what I have heardabout it.
805 Q-Did he claim to have been ordained an high priest? A-Well I guess he did.
806 Q-You guess he did? A-I did not see him ordained I say,but he claimed it there at that conference.
807 Q-Did he claim to have been ordained an high priest before the death of Joseph Smith? A-I don't know/ I could not say.
808 Q-Was there any one there that had been ordained an high priest before the death of Joseph Smith? A-I don't know. I can't remember the names of all those that were there with whom I was personally acquainted,-there was many other there besides the ones whose names I have given you,and with reference to their having been high priests there ordained in the time of the prophet I cannot tell you.
809 Q-Did you know William H. Deam? A-Yes sir.
810 Q-Was he,or was he not an high priest at that time?

Counsel for the plaintiff objects to all the questions asked the wit-ness on this line of enquiry for the reason that they are incompetent,irrelevant and immeterial,and not proper cross-examination.

A-He was.

811 Q-He was an high priest at that time? A-Yes sir,he was. And he was so understood by the church.
812 Q-From what time did his ordination date? A-I don't know onlyit was in the old xxxxxxxx organization. I know he was receiv-ved as such in to the re-organization,and understood to be such.
813 Q-After the death of Joseph Smith he was ordained? A-No sir it was before the death of Joseph Smith that he was ordained.
814 Q-Then if he was an high priest there at that cinference of 1852 was he not the highest authority present?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent, irrelevant and immeterial,is not cross-examination,and calls for an opinion of the witness.
A-At the first conference?
815 Q-Yes sir? A-No sir.
816 Q-Why wasn't he the highest in authority there? A-He was not there.
817 Q-He was not at that conference? A-No sir.
818 Q-What conference do you refer to as the first conference? A-It was in 1852,in June.
819 Q-When was the second conference? A-I don't remember. Maybe it was the next spring,but I don't remember the date postively.
820 Q-Now how do you know that Silas H. Briggs was a member of the old church? A-I knoew he was.
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the ground that it is incompetent,irrelevant and immeterial,and not cross examination.
821 Q-How do you know he was a momber of the old church? A-I know it.
822 Q-I am aware of that fact,but I want to know how you know it? A-Because I saw him when he went down to Nauvoo,-There was Silas Briggs;Jason W. Briggs and Almon White went down together to Nauvoo to a general conference.
823 Q-Did you see them at Nauvoo during the conference? A-No sir.
824 Q-You did not? A- No sir. I wasn't there,and of course I didn't see them;
825 Q-Then you only know that from hearsay? A-I know they went there, I know that well enough.
826 Q-You know they went there,-how could you know it if you were not with them? A-Well I know it and I will give you my reason for knowing it. I sent word down to the prophet Joseph Smith, and they brought they word from him back personally to me
827 Q-You sent word to the prophet? A-Yes sir.
828 Q-That means that while they were gone they saw the prophet and delivered your word to him? A-Yes sir,and brought back word to me.
829 Q-What was the question or word they brought back to you?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immeterial,andnot cross -examination.
830 Q-Well since they object to it I will waive the question and let it go. Now is it not the case with reference to all these parties whom you say belonged to the old church,that you know it from the testimony of others,and not from your own knowledge? In other words you know it from hearsay testimony. and not from your own personal knowledge or observation? A-I know it by personal acquaintance with them.
831 Q-With the parties? A-Yes sir.
832 Q-You did not see them baptized or ordained in the old church? A-No sir,but there is many a thing a person knows that they did not see you know. There is two hundred of these names that I recognize and knew,and it was from personcontatct with them and their testimony to that effect that I know this to be a fact.
833 Q-Now you have spoken of about two hundred names? A-Yes sir. I can read you all the names if you want them.
834 Q-You need not do so now,for when I get ready for them I will

call for them. Now when I called for the names of the ones who were members of the old church,and who took part in that conference at Beloit,out of this list of two hundred namesyou say you have you could only give me eleven names of persons that were present? A-Yes sir.

835 Q-That was yesterday? A-Yes sir.

836 Q-And you couldn't remember any others? A-No sir. There was others but I couldn't call them to mind.

837 Q-Now then you were speaking of two hundred names of persons that A-Yes sir. And here they are. There is one hundred and eighty of them.

838 Q-Do you mean to be understood as testifying that these two hundred names to which you refer were people who belonged to the old church,and who were in the conference of 1852,of which you have been speaking? A-No sir,to be exact there was or is one hundred and eighty names.

839 Q-Do you mean to say there was one hundred and eighty persons in the re-organi zation as you call it that took place in 1852, who had belonged to the church prior to 1844? A-No sir,I don't know that In some sense they were.

840 Q-I am talking about the one conference? A-Yes sir I have answered you and given you the details of the one conference.

841 Q-Then you do not undertake to say that these one hundred and eighty names you speak of now were all members of the conference of 1852? A-No sir,they were not. I know just the eleven persons whose names I have given you who were there, and who were members of the old church;but at the same time I know there was many others there whose names I have not given you for the reason I cannot recall them to my mind now.

842 Q-Well that is all I will ask you on that question at the present time at any rate. Now were there any authorized publication of the procedings of that conference of 1852 published? A-Yes sir.

843 Q-Are you able to state the title and character of such a publication or publications? A-I think it was the"Voice of Captives" if I remember right was the title of it. It was either that or the "Word of Consolation".

844 Q-Was there not one called the "Word of Consolation to the Scattered Saints"? A-Yes sir,I think that was the title of the first one that was sent out. It was authorized and written by a committee that was appointed to write it at that conference.

845 Q-Would you krow the publication if you were to see a copy of it? A-Yes sir, Ithink so.

846 Q-Is that it? A-Yes sirthat is the publication. I have one at home also.

The copy of the publication referred to is marked Exhibit 10,J.M.Orr offered in evidence,and objected to on behalf of the plaintif on the ground that it is incompetent,irrelevant and immeterial,and not cross examination.

847 Q-I will offer it now and have it marked for the purpose of identifiaation only,Now will you take this pamphlet entitledA Word of Consolation to the Scattered Saints,and on page twenty one read fourteen lines,commencing at the top of the pageM

Counsel for the plaintiff objects to the question on the ground that it is incompetent and irrelevant and not cross examination... and on the further ground that the portion designated to be read is a disconnnctdn portion by transposition of a paragraph,and plaintiff insists that if any thing is read the whole paragraph shall be read.

A-Winess reads from the paragraph referred to from the words"

A-Witness reads from the paragraph referred to,begim ing at the words,"we cannot forego",as follows,-"We cannot forego this opportunity to raise our voice against an evil which has well ning completed the over-throw of the church;-which Samson like hath lain hold upon the very pillars of society.And instead of order it has produced anarchy,instead of union, division;in short,instead of confidence and love,distrust and hatred. We refer to the system of spiritual wife-ry,taught by Brigham Young,to the "plurality"doctrines of James J. Strang and the fouler system(of(whoredom) taught by William Smith,and his joint occupant called "Spokesman". These systems,though unlike each other,are all known as a system of polygamy;under which they themselves take shelter;hencex we will not treat of them under their proper names,but under the less offensive or semi-legal one,viz,polygamy".

848 Q-Do you recognize that as a part of any of the documents authorized by that conference? A-Yes sir.

849 Q-Of what is it a part? A-That was done by the committee that was appointed to write that,and they wrote it,and it was presented to the next conference,and received.

850 Q-And was it approved? A-Yes sir.

851 Q-In what manner was it approved? A-It was approved as the work of that committee. That part there is the last two pages of the document itself as printed.

852 Q-Is there any difference between the document as printed and the original? A-Not that I am aware of.

853 Q-You may examine it and see? A-Yes sir it was. After the committee had finished there was a resolution,-well.I don'tknow these facts of my own knowledge for I was not there at the time,-but the resolution it appears was introduced. I don't know how that came about,but these three pages were added,as it was not deemed to have declared expressely enough on that subject.

854 Q-Added upon what authority? A-I wouldn't say upon what authority. There is the words of the committee,andxthis was added to the words of the committee,and I see this was addedx to the work of the committee,but I wouldnot say upon what author-ity,but I know it was declared on the intimation of the ~~inkim~~ Spirit,for it was claimed it was not express enough as it came from the committee,and they were commanded to write three more pages,or what is written there that amounts to these three pages.

855 Q-Was that piblished in pursuance of that resolution? A-Yes sir there was aresolution passed upon an intimation that they should make the matter of plurality of wives apart of the announcement.

856 Q-What you have e read here was a part of what was intended or was written on the question of pluralm marriage? A-Yes sir.

Counsel for the plaintiff moves the court to exclude the answer of the witness from the record on the ground that it is incom petent,irrelevant,and for the further reason that the answer of the witness must be hearsay because he says that he was not present and does not know anything about the transaction from his own knowledge.

857 Q-Was the pamphlet published by authority of the conference? A-Yes sir,as a pamphlet it was.

858 Q-As a pamphlet it was published? A -Yes sir.

859 Q-Do you know whether or not that pamphlet met the approval of the conference? A-I cannot say. I think it did.

860 Q-Do you know whether it did or not? A-I never heard anything to the reverse.

861 Q-In other words you never heard anything to the contrary? A-No sir.

862 Q-I hand you now what has here to fore been marked as an exhibit in testimony in this case as exhibit "M",entitled "No 45,- The Re-organized church of Jesus Christ of Latter Day Saints, in succession from 1830 to the present",and ask you to read on page nineteen three lines,at the bottom of the page,and on page twenty thirteen lines ending at the word "polygamy"?

By Mr E.L.Kelley,-"Let the record show that we ask that the entire paragraph be read".

By Mr Southern,-

863 Q-And as plaintiff asks or requests that the entire paragraph appearing on page twenty be read,I will ask you to read in addition to the fourteen lines,the balance of the paragraph beginning at the words"this was adopted",on page nineteen?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immeterial,and not cross-examination?

A-"It was moved,that the report of the Presidency on the matter referred to them by this conference,from the Decatur District be received,and adopted as expressing the view of this conference." Saints Herald,vol26.pp 329,330.

This was adopted.

In February the re-organized church published a tract for gen-eral distribution embodying the facts of the conference,held at Beloit,Wisconsin,June 12th and 13th,1852.,including an article against polygamy,from which we quote the following,- "We cannot forego this opportunity to raise our voice.against an evil which has well nigh completed the over-throw of the church,which Sampson like,hath lain hold upon the very pil-lars of society;and instead of order it has produced anarchy; instead of union,division;in short instead of confidence and love,distrust and hatred. We refer to the system of spirit-ual wife-ry taught by Brigham Young,and the plurality doc-trines taught by James J. Strang. These systems though un-like each other,are all known as a system of polygamy under which they themselves take shelter;hence we will not treat of them under their own proper names,but under the less offen-sive,or semi-legal one,viz.,polygamy. Whence came the prac-tice and where is the warrant for it? The first we hear of it is from the lips of Lamech a son of Cain,who owns himself deserving of seventy fold greater punishment than Cain him-self. We conclude therefore that none will quote Lamech in a justifying precedent. But we insist that the father of the system gives it its character. His shedding blood was but a type of what belongs to, or must accompany the system,since male and female come into the world about equal; and God having stamped upon man his own view,that "it is not good that man should be alone",hence,ofcourse if one like Lamech secures one or two additional wives,he must either persuade that number of men that it is"good to be alone",or he must kill them off. It seems he chose the latter,which no doubt was the easiest".

864 Q-Did you,or do you recognize what you have just read as a quota-tion from,-or a part of a quotation from this deliver-ance on page twenty one of the tract entitled a"word of con-solation for the scattered saints"? A-Yes sir,part of it I do'

865 Q-Did you observe any quotation or reference from the compilation which you have just read,-any thing concerning William Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immeterial,and not proper cross-exam-ination.

866 Q-Answer the question? A-What is it?

867 Q-I asked you if you observed whether or not the quotation you

have just read from exhibit M,contained any reference to Wil -liam Smith? A-In the first pamphlet?

868 Q-Yes sir in the first pamphlet which you read,entitled"A word of Consolation tec",was there any reference to William Smith? A-Yes sir.

869 Q-His name was mentioned in that? A-Yes sir.

870 Q-Well in this last pamphlet you have read,do you notice any ref-erence to it? A-I don't notice it here.

871 Q-You notice that all references to William Smith is left out of Exhibit M,which is the compilation? A-Yes sir,but this is something I don't know anything about(referring to Exhibit M)

872 Q-You do not say that the quotation you have lastread contains any thing of what was said about William Smith in the "Word of Consolation?" A-No sir I will look at it more critically and see how that is,but at this time I do not remember seeing his name mentioned in it at all. I do not see his name here at all.

Counsel for the plaintiff objects to the question asked the witness and ther answer of the witness thereto,and moves the court to strike the same from the record for the reason thatit is in-competent,irrelevant and immeterial,and not proper cross-exam -ination,and the witness cannot testify to factsm of which he says he has no personal knowledge. And further objection is made on the ground that the pamphlet marked exhibit "M", from which the witness was asked to read,has never been intro -duced in evidence by either party in this case,nor offered by either party to this action as a part of the evidence in the case.

873 Q-Did you observe in the paragraph you read from k in the compila-tion,and when I refer to the compilation I mean Exhibit M,- did you observe in the compilation you last read from,any stars or other marks,showing that there was an omission? A-No sir.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immeterial,and not cross-examination or the best evidence.

874 Q-You did not notice any thing that would indicate that there is an omission,or that something had been left out? A-No sir, there is no stars.

875 Q-Or other marks showing an omission? A-No sir.

× Counsel for the plaintiff objects to the question asked the witness on the matter of the alleged omission,for the reasons above set forth and on the further ground that it is a repetition of matter already enquired into.,and move the court to exclu-de the answer of the witness to all questions asked on the point of the omission referred to, and evidence refer ing to the pamphlet marked exhibit M,and also the pamphlet or paper marked exhibit IO,on the ground that they are incompetent,irrelevant and immeterial,and any examination regarding them is not cross examination.

877 Q-Do you know whether that is marked,-the pamphlet that is marked as exhibit IO, entitled "A word of Consolation",-whether that is said in that pamphlet regarding William Smith is true or not?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immeteri-al,and not proper cross examination.

A-Do you wish me to read it again?

878 Q-No sir,I simply asked you if you knew what was said about Wil-liam Smith in that quotation you read was true or was not true? I asked you what you knew about that,simply?

A-No sir I don't

876 Q — There is nothing whatever showing an omission? A — No sir.

know anything about that. I never met with Mr Smith until after this was ordered published.

879 Q-You never met hi before that? A-No sir I never met Mr Smith personally until after that was published. I never met him personally before that.

880 Q-Do you know what relation Jason W. Briggs, who was President of that conference in '52 and '53, sustained to William Smith with reference to the charges of that pamphlet,-that is the charges contained in the pamphlet?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrel-evant and immeterial and not proper cross examination, and any thing this witness might say with reference to that would be hearsay for the witness has stated that he was not present at the conference of 1853., and does not know who was its President.

A-I would like to have that question read over again?

881 Q-I will ask you this question,-can you state whether you know there was any changed relations between Jason W, Briggs and William Smith, based upon the charges made in this pamphlet marked exhibit ten, from which you have read?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrel-evant and immeterial, and not the best evidence, or proper cross examination.

A-I know he had the relationship with him at that time. He was not in fellowship with him.

882 Q-Who was not? A-Jason W. Briggs was not in fellowship with William Smith at that time.

883 Q-With William Smith he was not in fellowship at that time?

A-No sir. Not at the time that was ordered to be prepared.

884 Q-Was that in consequence of the charges that are made in this pamphlet?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immeterial, and not cross examination.

A-I don't know about that,-there may have been one or two that are not in that that caused it,-It might have been about that, but I can't say positively as to that, for that is one of the things I don't know about.

885 Q-Was there anything given to Jason W. Briggs in his relation to the re-organized church, in the shape of a revelation, that specifically condemned that doctrine as taught by William Smith?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, ir relevant and immeterial, and not cross examination.

A-I don't remember that there is.

886 Q-You don't remember about that? A-No sir.

887 Q-By the way Mr Briggs, what position does William Smith hold in the re-organized church at the present time?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as set forth in the last objection and for the reason that it does not call for the best evidence.

A-I think he holds the position of office of an elder, but I can't say for certain about that.

888 Q-Do you know whether or not he is an elder? A-Yes sir I am quite sure he is an elder though, for I have heard him preach.

889 Q-Do you know when he came into the re-organized church?

A-No sir I do not.. I do not know when William B Smith was received

for I was not present at the conference atwhich he was received.

890 Q-You were not present at the conference at the time he was receiv-ed? A-No sir.

891 Q-Do you know what conference he was received at? A-No sir.

892 Q-Well what is your best recollection as to that? A-I do not remember anything about that for I was not present at the time, and therefore I cannot say. If I had been present I could possibly tell you something about it,but as I was not I am unable to ~~xxx~~ do so. There was several conferences there that I did not attend and he was received at some of them,-I do not know which.

893 Q-Do you knowwhat that conference held in 1852 called itself?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immeterial,and not proper cross examination,nor the best evidence.
A-I don't know unless it was known as the re-organization that was commenced.

894 Q-Do you know what the name selected by them to designate the organization was? A-They recognized that wherever there was six or more members of the old church gathered together,-they recognized it,and all organizations that were local were recognized from 1830 up to 1851,or the time,-

895 Q-Do you mean that all organizations,that theym deemed to be local were received? A-Yes sir.
Counsel for the plaintiff objects to be question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immeterial and hearsay and not cross examination
A-I should say all organizations ,hat they could show were legal or produce evidence of the fact ,hat they were legally organized under the old dispensation,were recognized by them as legal in this first conference,and all members belonging to such aan organization were received.

896 Q-How were they received? A-On their original baptism.

897 Q-Who determined their legality? A-Well at the time the came to the conference it was decided,or at the time they were admitted to the branches to which they belonged,andin many instances the branches with all their members were admitted.

898 Q-I understand that exactly,but who was it determined their legality? A-The conference ot branch,-wherever the presented themselves.

899 Q-If it was a conference,~~xxxx~~,the conference itself recognized them? A-Yes sir. I will illustrate that if you please. You do not seem to understand my meaning,and prhaps I can make you do so by an illustration. Last June a gentlemen came to a conference at Mission,Illinois.,It was to a district conference he came,and he had in his possession a license of elder-ship in the church in 1841.I think it was,and we took his evidence,-we took that as evidence together with his statements to the same effect,that he had been a member of the church then,and was at that time,and so we accepted him as a member on his oldxx membership.

900 Q-You say "we" did that? A-Yes sir.

901 Q-What do you mean by the word "we did that"? A-Well I mean that the conference did it,and I was present.

902 Q-Who was ~~xx~~ the judge of the legality of that license? A-It was passed upon by a committee,but I don't remember just how that was further than that there was a number spoke upon the subject.

903 Q-Do you mean to say that they have a committee to be the judge of these things? A-I don't remember.

just how it was,but that is my impression. I think that is the way these things are generally done,but I do remember that there was a number spoke upon the matter,some of whom were acquainted with the gentlemanmand their statements together with the license and his statement was suffidient to constitute him elegible to become a member.

904 Q-To become a member of what? A-Of the Re-organized Church of Jesus Christ of Latter Day Saints.

905 Q-In whose judgement? A-Ih the judgementof the conference.

906 Q-Of what Conference? A-Of the District Conference.

907 Q-Now you have said something about the church being rejected, have you not? A- Yes sir.

908 Q-The original church was rejected,-is that what you say? A-Yes sir.

909 Q-Why do you say it was rejected? A-Because it was rejected.

910 Q-How do you know that,-what evidence haveyou that that was the fact? A-The evidence of its rejection was the taking away of its two principle officers,-the twp presiding officers of the church.

911 Q-At what time do you locate that rejection? A-The evidence is that itwas on the 27th day of June 1844,andI think that was thetime.

912 Q-Well I will now ask you this question,-who rejected the church? A-Whorrejected the church?

913 Q-Yes sir that is the question I asked you? A-God. God rejected it.

914 Q-How do you know it? A-On the ground that if they would do a certain work in a given time,and if they did not do it they would be rejected as a church with their dead.

915 Q-That is the way you know it? A-Yes sir.

916 Q-Do you know it from any other means than your judgement? A-The revelations states that aldo.

917 Q-But do you know it from any other means than your judgement of what the revelation means? A-They set to work to accomplish that,and I know they did not accomplish it,and that that followed was an exhibition of their rejection.

By Mr P.P. Pelley,-"All this is objected to on the ground that it is not cross examination,incompetent,irrelevant and immeterin -al.

By Mr Southern,-

918 Q-Did that revelation of which you speak specify any limit as to time? A-In what respect?

919 Q-As to when the rejection should take place?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is not cross examination,is incompetent and immeterial,and not relevant to any issue in this case,and does not call for the best evidence.

A-Yes sir,it did.

920 Q-What was the time? A-A sufficient time,and that if they would do this they would be placed,and would not be moved out of their place.

921 Q-When was that revelation of which you speak given? A-I don't know about that. A- In 1841.

922 Q-By whom? A-Joseph Smith.

923 Q-When was it submitted to the quorom,if at all? A-I don't know about that.

924 Q-Was it ever submitted to the quorom? A-It was submitted to the church,and published as his revelation, and according to history it was acted upon

925 Q.-It was acted upon? A-Yes sir.
926 Q.-How do you know that? A-From history.
927 Q.-Well is it from that revelation and your understanding of it, that you say the church was rejected at this particular time in 1844? A-Yes sir.
928 Q.-Well I would like to know more definitely the reasons you have for arriving at this conclusion? A-The evidence we base it,-that is that we base the rejection on,-is this,-two of the prindiple officers were taken from the church,and then all the quoroms broke up or were dissolved.
929 Q.-Then do you undertake to say in answer to my question as to who rejected the church,that God rejected it? A-Yes sir.
930 Q.-That is your testimony on that question? A-It is.
931 Q.-Are you sure that you know the mind of God on that subject? A-Yes sir. I am not sure,for I know I know the mind of God on that ~~subject~~ question.
932 Q.-Upon whose judgement do you base your conclusion that you know the mind of God on that question? A-By the Spirit of Revelation to me.
933 Q.-By the Spirit of Revelation to you,-is that what you say? A-Yes sir.
934 Q.-Upon whose judgement do you base the conclusion that you had a Spirit of Revelation on that subject? A-Upon the judgement that I have a knowledge of the dealings of God with men,according to his law.
935 Q.-Well then,is it not upon your own judgement that you claim to be possessed of this knowledge? A-It is upon my own judgement in the sense that a man has a sense of what he knows and sees. I saw,Ifelt,and I heard throughthese senses,and therefore I know these facts.
936 Q.-You have not told us what you saw,and felt,and heard which taught you these facts? A-Yes sir.
937 Q.-No you haven't,and I would like you to state them?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immeterial,and noy the best evidence,and not proper cross-examination.
A-What is the question?
938 Q.-I would be glad if you would state what it was you saw,and felt, and heard that taught you that God had rejected the church at the time to which you testify? A-Well I did not say I knew it at that time,-at the time of its being taken away,-I did not say that I knew it at that time at all.,for I didn't know it then,
939 Q.-Well tell us what you know about it,whenever it was,-what you saw and felt and heard that ~~xxx~~ taught you that the church had been rejected?. A-I will tell you what I saw and felt and heard.
940 Q.-Well go on and do so? A-At the time of the public reports of the assassination of Joseph and Hyrum Smith at Carthage,Illinois,the Spirit of God rested upon me,in power,and I saw a vision,and in that vision I saw a statue,-a marble statue,-and I enquired as a soliquy in my own mind "what does that mean"?and a person stood to my right,and I hadn't noticed him,or heard him speak before,-and answered my question saying,-"you are compared to that statue". I noticed the person but did not takecognizance so as to state how he looked,-that is so as to be able to give his discription. Immediately afterwards I saw a beautiful hand,transparent in appearance, and between the thumb and index finger was a sheet of paper, with the lower leaf opened down so I could see both

sides of the paper,and when I looked upon it,I soliquized in my own mind again "what could that mean",and this personage to my right said"you are compared to that sheet of paper",and I then heard a voice out of it,serene,placid,and clear,and to my mind a sensation pervaded my mind,in a calm clear way,and a voice said,-"Joseph,the son of Joseph is the President of the church",and then followed the voice of the Spirit to me saying that his Father was dead,and the little child would be the successor of his father. I felt that Spirit in power,an I heard that excellant voice from the heavens addressing me per-sonally,and I saw these manifastations with my eyes in truth In the words of truth and seriousness I declare I heard and seen and felt these sensations".

941 Q-Is that all? A-Yes sir.

942 Q-Is that all the truth of what you saw on that occasion you desire to say? A-Yes sir,that is all. That is all there is to that.

943 Q-Is there anything in all you have related to prove that the church was rejected? A-It proved that the Presidence of the church had been taken from the church,and his successor would be his son.

944 Q-Pardon me if I ask you to repeat that answer for I did not get that last? A-It proved that the Presidence of the church had been taken from the church,and his son would be his successor. That is what I said.

945 Q-Did it prove anything about the rejection of the church by the Almighty? A-What is that?

946 Q-Did it prove anything about the rejection of the church by the Almighty? A-It proved this to my mind that they were left without a revelator,a prophet and a seer,-a man like Moses holding all the gifts of God that were bestowed on the head of the church and that left the church without its complete organization. It proved it conclusively to me,hence the dis-organization of the church commenced immediately upon the taking away of Joseph Smith.

947 Q-Is this then,what you wish to be understood as saying,-the facts which you have related,showing that the head of the church had been taken away? A-Yes sir.

948 Q-And the fact that the head of the church was dead,was sufficient to cause the rejection of the church,until the true successor should be installed in his place? A-It proved to my mind then that the leading quorums,-the majority was taken from them,and that they were bereft without a general officer,as a revelator,seer or law giver to the church.

949 Q-And how long did that condition last? How long was it to last? Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it calls for a conclusion of the witness,is incompetent,irrelevant and immeterial, and isnot cross examination.
A-I don't know.

By Mr P.P. Kelley,-"Let the record show that all this line of exam-ination if objected to,and every question,and each and every answer is moved to be stricken from the record as immeterial ,irrelevant and incompetent and not cross examination."

By Mr Southern,-"Let the record show that the defendants attorney is pleased to see that counsel for the plaintiff objects to it,for it shows that he is conscious of its effect".
A-What os the question?

950 Q-How long did that condition of the rejection of the church last of which you have spoken?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immeterial,calls for an opinion of the witness,and is not cross examination.
I don't know how long it did last.

951 Q-You don't know when that condition of rejection lasted and the church was re-instated in the favor of the Almight? A-I do not know,but I know when the re-organization began.

952 Q-Doyyou know when it was completed?
Counsel for the plaintiff objects to the question for the reasons abovegiven. A - It has not been completed up to the present time that I know anything of.

953 Q-Now do I understand you correctly,when I understand you to say that the re-organization of the church has not been completed up to the present time?
Counsel for the plaintiff objects to the question for the reasons above given.
A-If I understand you to say or mean that the offices in the church have been filled that were filled in 1841 or 1844,I say they have not been filled yet. Not all of them. The revelation of 1841 was acted upon,by which the officers to which thic communication was addressed was recognized by God,and these officers have not yet all been re-placed in the re-organization.

954 Q-Then according to your understanding of the revelation to which you have referred as having been received,-has the time of the rejection of the church expired?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immeterial,and not proper cross examination.
A-Well now I think it expired lonh ago,but that is my opinion

955 Q-When did it expire?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A-Well I don!t know when it expired. I know when the re-organ-ization began in its proper sense in the quorums. I understand also I think,the sense in which it was rejected by command of God.

956 Q-How do you know that the revelation of which you speak,detailing to you the matters which you have related,was a revelation from God,otherwise than from your own judgement?
Counsel for the plaintiff objects to the question on the grounds above set forth.
A-My judgement as a matter of course is exercised in the matter,and the evidence which I have,and my conclusion is based upon the experience and knowledge which we have of God's manner of dealing,as detailed in his word.

957 Q-And that the experience you had was a revelation,is a conclusion based upon your judgement? Is that a fact?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immeterial and not cross examination.
A-It is based upon the evidence I have from his word.

958 Q-Have you any higher authority for it then,than your own opinion of your own judgement? A-Yes sir. I have a higher authority than that.

959) Q-What is it? A-The word of God.
960 Q-Where is that to be found? A-In the bible,the book of Mormon and the book of Covenants.
961 Q-Have you any higher authority that this revelation of which you speak,is based upon the word of God? I refer to these books of which you speak,and your own judgement that it is so based
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not cross examination.
A-I have the authority I have stated,and as for my experience I wouldn't give that for any one else's experience,for a personal experience means more to me than the experience of any one else possibly can.I know there is a God in Heaven,and that he spoke to me in the way I have related.
962 Q-Mr Briggs you were quite a youth when this all occured to you. were you not? A-Yes sir,a child almost.
963 Q-About what age were you? A-About ten years old,or nearly so.
964 Q-You were ten years of age? A-I was in my tenth year.
965 Q-Might not this command or revelation been a vagry of your childish imagination? A-No sir,there may have been since,but that could not be.
966 Q-Has that revelation ever been reported to the church,and acted upon as a revelation? A-No sir.
967 Q-Has it ever been accepted by the church,-taken by the church,and acted upon as a revelation?
Counsel for the plaintiff objects to the question for the reasons above given,and on the further ground that it calls for an opinion of the witness.
A-No sir.
968 Q-You know the laws of the re-organized church?A-Quite well Ithink
969 Q-Do you know what are the tests of fellowship in the re-organized church? A-Yes sir.
Counsel for the plaintiff ibjects to the question for the reasons above given,and moves the court to exclude the answer of the witness for the same reasons.
970 Q-What must an applicant for membership in there-organized church believe and do before he is elegible for admission into the church?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons,that it is incompetent, irrelevant and immeterial,not cross examination,and not the best evidence.
A-He must believe in God,and in Jesus Christ as the Son of God,and in the gift of the Holy Ghost,repentance and dead works,baptissim for the remission of sins,laying on of hands for the gift of the Holy Ghost,and he must believe in the resurrection of the dead and eternal judgement.
971 Q-Are those allthe requirements? A-Those are what are called the fundamental requirements.,-fundamental principles,and all the others are based upon them.
972 Q-What are the tests for the various orders of the ministry in the re-organized church? Are they any different from the tests of membership?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A-The tests for their calling into the/ministry?
973 Q-Yes sir? A-Yes sir.
974 Q-Well what are they? A-Yhey should be designated by a revelation

from God.

975 Q-Who should be designated?,-the individual or the tests? A-The individual should be designated by a revelation from God.

976 Q-Axrevelation to whom? A-To themselves,and those who may o rdain them,or those who order it done. Axrevelation may come to them directly.

977 Q-Who passes upon the validity of the revelaton? A-Those who have the discretion or power to ordain,-in a word they that are ordained to the several offices in this church,should be called of God,as was Aaron,and ordained according to the gift of which they possessed from God,and the calling of God. They are ordained under that calling by the power of the Holy Ghost that is in the one that ordains them. In fact continued revelations from God is the basis of the re-organization as it was with the old organization. The church could not exist without it.

978 Q-You never belonged to the old organization you said,did you not? A-Yes sir.that is what I stated.

979 Q-Then you never belonged to the old organization? A-No sir.

980 Q-And you know nothing about it practically from personal observation and experience? A-Only just from what I saw and heard, I was converted in'42,-

981 Q-That was when you were seven years of age? A-I was in my eighth year.

982 Q-What is fellowship in the re-organize church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not the best evidence,nor cross-examination.
A-Why through unity as brethern and membersof the church,-by admitting these principles of the doctrine of Christ.

983 Q-Well what are the tests of fellowship? A-A dis-belief or rejection of these are the grounds upon which legal dis-fellowship may be based.

984 Q-Well sir I asked you what were the tests of fellowship,-what are they now at the present time? A-A disbelief in or disobedience to the doctrines of Christ shall,-

985 Q-Well that is notan answer to my question,:Can you state more fully what a party must do in order to be fellowshipped?
A-They must believe in God,and in Jesus Christ as the Son of God,and in the Holy Ghost,and in the scriptures of divine truth.

986 Q-In the book of Mormon? A-Not necessarily.

987 Q-In the book of doctrine and Covenants? A-Not necessarily.

988 Q-That is all?
Redirect examination My Mr Kelley,-

989 Q-You stated in your cross examination Mr Briggs,that it was not necessary in order to be come a member of the church,-of the re-organized church to which you belong to believe in xxxax certain things. I will ask you now Mr Briggs what a man must believe with reference to the question of marriage? A-We hold that a man should have but one wife,and concubines none

990 Q-Suppose Mr Briggs that a man should desire to become a member of the church towhich you belong,and should believethat Adam was God,would he be received as a member of the church? A-No sir

991 Q-Suppose that he belived that the doctrine of blood atonement was true,-would he xxxxxxx if received if he believed in that?
Could be he be received as a member of the church in fellowship,if he believed in the doctrine of

in the doctrine of blood atonement,could hebe received in the church ~~if he be~~ as a member in fellowship?
A-No sir.

992 "-He could not be received into the church as a member if he believed in the doctrine of blood atonement? A-No sir,-except in the case of the shedding of Christs blood.

993 Q-You stated a while ago in your cross-examination,that if a party believed in all the doctrines and principles taught in the bible,and the new testament,he would be eligible for membership in the church to which you belong? A-Yes sir.

994 Q-Is that on the basis that the man believes all the doctrines and teachings of the bible,of necessity he believes what is taught in the other books?

Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that the same is leading.

995 Q-What is the fact about that Mr Briggs? A-That whoever believes in the doctrine of Christ as taught in the new testament,and the revelations of God as found in the Bible,would believe in the revelations of God found anywhere else. It is a sentence that fellows the basis.

996 Q-And upon that basis,believing in these things,he would eventually believe in the Book of Mormon,-the doctrine taught in the Book of Mormon and the Book of doctrine and Covenants?
A-Yes sir,as a necessary conclusion he would.

997 Q-When were you first sent as a missionary to Utah? A-In '63,-in 1863 it was.

998 Q-Did you have charge of what is known as the Rocky Mountain Mission? A-Yes sir.Well I don't know that it was ~~called that~~ entitled that way. What I had charge of was just Utah territory and Nevada,-the "Western Mission"I think it was called at that time.

999 Q-The"Western Mission"? A-Yes sir.

1000 Q-Did you become acquainted with the elders of what is known as the church in Utah,during the time of your sojourn there,or some of them?
A-Yes sir,some little.

1001 Q-Did you ever hear them preach? A-Yes sir.

1002 Q-Did you ever meet with them? A-Yes sir,ocassionly I did,but not so very often.

1003 Q-I will ask you Mr Briggs this question with reference to the teachings of the church in Utah,-whether or not the membership of the church in Utah were taught to follow the teachings and doctrines of the bible,or whether they were,-The bible the book of Mormon and the book of doctrine and covenants,-or were they taught to follow the teachings and counsel of the priesthood?

Counsel for the ~~defendants~~ defendants objects to the question asked the witness because it is not the best evidence,and because it calls for an opinion of the witness upon a subject regarding which he has now shown himself to be qualified to testify,or to give an opinion upon.
A-I know this,-that they were taught directly in opposition to the teachings of the bible,the book of Mormon and the book of covenants.

1004 Q-What were they taught in reference to obeying the counsel of their elders? A-They were taught simply to call upon their elders. They used the word "file",and "leaders",-"we will follow our file leaders and if the act be wrong the sin will be upon them,and not on us".

1005 Q-You were asked yesterday about the conference in Beloit in 1852 and asked to give the numbers of the members at that conference who had originally belonged to the original church?
A-Yes sir,and I have the names of the ones I could remember.

1006 Q-Now I will get you to state Mr Briggs,approximately,how many persons constituted that conference? A-Well I could not say as to how many were there definitely,-I cannot state the number.

1007 Q-I did not ask you to state any definite number,unless you can do so,-but I did ask you to state the number approximately as well as you could? A-Well I should say there was from fifteen to one hundred persons there at the conference. I should judge there was that many there at the conference.

1008 Q-Now what is the fact about the persons that were there attending that conference,representing others who were not there,-that is representing these societies or branches that were not there? A-Well there were people there from Wankeshaw and from what is now known as Blanchardsville,-I think it was called Yellowstone then,as I stated before,but I do not remember that there was any organized church there at that time ,but just scattered members in there. I know that for my brother Silas was in there,and there was no branch where he was I know.

1009 Q-Now who were all the members of that Wankeshaw and Yellowstone branch,from whom delegates were sent to that conference in 1852?

By Mr Southern,-"We object to that question,because the witness has not shown that he knows who all the members were".

By Mr Kelley,-

1010 Q-If you know? A-I do not know. I did not know any one from Yellowstone except brother Elder Gurley,and Elder Powell was from there,for he had been there on a mission.and represented the work there.

1011 Q-You stated in your cross examination Mr Briggs that members who were members of that conference,and who were not ex-officio members or delegates,did not have,-did not have a voice or vote in that conference? A-Yes sir.

1012 Q-Now is this not a fact that they have a voice and vote through their delegate? A-Yes sir. Oh yes sir,of course they have in that way.

1013 Q-Is it not a fact that delegates were chosen for the purpose of giving a voice and vote to every member of the church in these conferences? A-Yes sir,certainly they choose their delegates, and the delegates represent them if they cannot attend.

1014 Q-For the purpose of giving representation in the conference to those that cannot be present as well as those that can be present? A-Yes sir.It is a logicaldeduction that delegates carry the vote of others. That is as I have always understood it.

1015 Q-You may look at paragraph two,page one hundred and fifty nine of exhibit four Mr Witness,and read paragraph two to the reporter and then state whether or not there is any other test for membership or qualification for delegates in the church to which you belong? A-"The only qualification to eligibility to the office of delegate from district to General Conferenceshall be membership and good standing in the Church".

1016 Q-Is there any other qualification known to the church,other than what is stated there? A-That is all.

1017 Q-There is no other? A-No sir,no other. That is all.

1018 Q-I will ask you to look at paragraph five,section one hundred and five, on page two hundred and ninety eight of exhibit "J" commencing near the middle of the seventh line of the paragraph at thewords "and after their tribulations,etc",and read it,and state if that is the quotation

if that is the quotation you made in your cross examination, or attemped to make with reference to the falling away of the twelve, I have marked the part there I desire you to read? A-"Pray for thy brethern of the twelve and admonish them sharply for my names sake and let them be admonished for all their sins and be ye faithful before me unto my name. And after their temptations and much tribulations, behold, I, the Lord, will feel after them; and if they harden not their heart and stiffen not their necks against me, they shall be converted, and I will heal them". Yes sir that is the quotation I had reference to.

1019 Q-You spoke in your cross examination about the rejection of the church, and started to quote some passage with reference to that subject? A-Yes sir, I remember.

1020 Q-Well I will get you now to take the book of doctrine and covenants, or any other standard work of the church, say for example Exhibit "J", and read any portion of exhibit "J" with reference to that subject? A-It is in section one hundred and seven in the tenth paragraph on page three hundred and four, commencing at the fourth line of the tenth paragraph, and a part of the eleventh paragraph also, commencing at the words "but I command, etc" down to the words "saith the Lord you God" It is as follows,-"But I command you, all ye, my saints, to build an house unto me; and I grant unto a sufficient time to build an house unto me, and during this time your baptisms shall be acceptable unto me.
But behold at the end of this appointment, your baptisms for your dead shall not be acceptable unto me; and if you do not these things at the end of the appointment ye shall be rejected as a church with your dead saith the Lord you God".

1021 Q-Your attention was called to exhibit number 10 Mr Briggs on your cross examination, the same being a pamphlet entitled "a word of consolation to the scattered saints"? A-Yes sir.

1022 Q-I will get you to stae now what part of that pamphlet was authorized by any conference to be published, and for the purpose of refreshing your memory or recollection I will call your attention to page twenty of exhibit number "10", commencing at the word "at" in the ninth line from the bottom of the page, and ask you to read it to the reporter? A-"At a conference of the church held at the YellowStone Branch, Lafayette Co., Wis., Oct 6th, A.D. 1852, the foregoing pages were presented and approved, and ordered to be published with the sanction of said conference.
The next semi-annual conference of the Church of Jesus Christ of Latter Day Saints, will be held at the above named place, commencing the 6th day of April, 1853 which the scattered priesthood,-and especially delegates from the different branches,-are requested to attend".

1023 Q- Read the signature to that also? A-J.W. Briggs., Zenas Gurley., J. Harrington. Committee".

1024 Q-Now I will ask you Mr Briggs if the part of the pamphlet, being exhibit number "10", to which your attention was called this morning on the cross-examination, is the part was presented to the conference and by the conference, ordered printed? A-No sir that part was not laid before the conference at all That was not read to that conference at all, for it was not written at that conference.

1025 Q-You may examine that carefully Mr Briggs the remaining pages of that pamphlet marked exhibit number "10", and if you can detect in any portion of it, any sentence, word or line, from which you can asertain, that it was ever presented to the conference or to any

conference at any time,you may read it to the reporter? A-I do not understand what you want.

I026 Q-I ask you to read o r look over the remaining pages of that pamphlet marked exhibit number "IO,and if you could findin any part of that remaining portion that would indicate that it had ever been presented to any conference of the church at any time,and was passed on by that conference, to read it to the reporter? A-Do you mean that I should read thee whole of this?

I 027 Q-Nowsir,-look it over and see if there is anything in there that shows that it was ever presented to any body of the people for acceptance? A-(Witness examines the part of the pamphlet referred to,and answers).No sir.

I028 Q-I will ask you Mr Briggs to look at pages one and two of exhibit number ten("IO"),-at resolution number four,and ask you to state whether that is the quotation you were making this morning,or trying to make on your cross-examination,with reference to ordinations in the church? A-Shall I read that?

I029 Q-Yes sir? A-"Resolved,that we recognize the legality of all legal ordinations in this church,and will fellowship all such as have thus been ordained,while acting w ithin the purview of such authority".

I030 Q-Is that that the one you had reference to? A-Yes sir,that is the one I reffered to.

I03I Q-That is what you referred to this morning on your cross-examination? A-Yes sir.

I032 Q-Now youraattention was called yesterday on cross examination to the question of lieage,and in the answer to the question you made a quotation from memory. Now I will ask you to read to the reporter from exhibit"E",section six,paragraph three, on page ninety nine,which,-and state if that is the quotation or quotations you atte mpted to make from memory yesterday? A-"Th refore thus saith the Lord unto you,with whom the priesthood hath continued through the lineage of your fathers,for ye are lawful heirs according to the flesh,and h ave been hid from the world with Christ in God;therefore your life and the priesthood hath remained,and must needs remain through you and your lineage,until the restoration of all things spoken of by the mouths of all the holy prophets sine the world began".

"Therefore blessed are ye,if ye continue in my godness,a light unto the Gentiles,and through this preisthood,a savor unto my people Israel;The Lord hath said it. Amen".

I033 Q-On that same subject in your cross examination you referred to a revelation given in I84I. Now I will get you to look at exhibit "J",and see if you can find the paragraph you were quoting from? A-It is on page three hundred and seven in paragra-ph eighteen.

I034 Q-Well what is it? A-Shall I read the whole paragraph?

I035 Q-Yes sir? A-A-At the beginning shall I commence?

I036 Q-Yes sir,commence at the commencement? A-"And now I say unto you as pertaining unto my boarding house,which I have commanded you to build,for the boarding of strangers,let it be built unto my name,and let my name be named upon it,and let my servant Joseph and his house have place therein,from generation to generation;for this annointing have I put upon his head, that his blessing shall also be put upon the head of his posterity after him;and as I sais unto Abraham concerning the kindreds of the earth,even so,I say unto my servant Joseph,in thee and in thy seed,shall the kindred of the earth be blessed. Therefore let my servant Joseph and his seed after him,have place in that house,

from generation to generation,for ever and ever,saith the Lord,and let the name of the house be called the Nauvoo house and let it be a delightful habitation for men,anda resting place for the weary traveller,that he may contemplate the glory of Zion,and the glory of this,the corner stone thereof; that he may receive also the counsel ~~of khexx~~ from those whom I have sent to be as plants of reason,and as watchman upon her walls".

I037 Q-Now is there anything else that you wish to refer to,or can refer to, you may give that also? A-In section one hundred and five, paragraph forty two,on page two hundred and ninety seven, of exhibit "J",it reads as follows,- What I shall read will be the forty second paragraph of section one hundred and five,-"And again the duty of the President of the office of the high priest-hood is to preside over the whole church,and to be like unto Moses. Behold here is wisdom,yea,to be a seer,a revelator,a translator,and a prophethaving all the gifts of God which he bestows upon the head of the church"

I038 Q-That is all.

Re cross examination by Mr Souther.

I039 Q-Mr Briggs a little book was handed you this morning entitled exhibit "four",in which was paragraph number two,stating the qualifications,-prescribing the qualifications which rendere a person elegible to attend the general conferences ~~of~~ as a delegat or otherwise I believe,and in which it was stated the only qaalifications to the office of elegibility in delegates from districts to General conferences,shall be membership and good standing in the church? A-Yes sir.

I040 Q-Now Mr Briggs I will get you to explain,,if you please,what is mean by the phrase"from district",or by the term"district", "the office of delegate from district"it says? Now what is a "district" Please state what t hat is?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason it is not re-cross-examination is incompetent,irrelevant,and immeterial,and calling for an opinion of the witness.

I041 Q-What is a district,-that is what is meant here by the word "district"? A-They have a mission and a destrict is a portion of country in that mission.

I042 Q-Then a district is the same as a missio? A-No sir there may be only one district in a mission,and then again there may be two or three or more districts in a mission.

I043 Q-In one mission there may be several districts? A-Yes sir.

I044 Q-Does that mean branch also?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as set forth in the last objection.

A-Two or more branches may constitute a district.

I045 Q-And do the branches send delegates to the conferences,or do the districts send the delegates?

Counsel for the plaintiff objects to the question asked thw witness for the reason and on the grounds that it is incompetent,irrelevant and immeterial,and not re-cross examination,and calls for an opinion of the witness,and not the best evidence.

A-Yes sir,the districts do.

I046 Q-The districts send delegates? A-Yes sir.

I047 Q-Does the district have over it any organization within itself?

Counsel for the plaintiff objects to the question asked the witness

on the ground and for the reason that it is incompetent, irrelevant and immeterial, is not proper re-cross examination, and does not call for the best evidence.

A-Yes sir.

1048 Q-What is it? A-The presiding officers?

1049 Q-Of a district? A-Yes sir.

1050 Q-A district has a presiding officer? A-Yes sir.

1051 Q-What are the methods of a district in selecting delegates?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reason that it is incompetent, irrelevant and immeterial, not proper re-cross examination, and not the best evidence.

A-At their district conferences they choose these that are elegible as delegates to represent so many votes

1052 Q-So then a district has a conference, has it? A-Yes sir.

1053 Q-And that conference delegates to the general conference certain individuals as delegates? A-Yes sir they elect delegates and send them to the general conference.

1054 Q-Now I will ask you if there was anything of that sort done at the general conference held in 1852? A-

Counsel for the plaintiff objects to the question on the ground that it is incompetent, irrelevant and immeterial, and not proper crosss examination, and not the best evidence.

A-No sir.

1055 Q-There was not? A-No sir. Not that I know anything of. I do not think there was.

1056 Q-Was there anything of that sort done in 1860 at the Amboy Conference?

Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.

A-I guess there was districts then.

1057 Q-Do you know whether there was or not? A-Oh yes therez was districts then.

1058 Q-Was there representation by districts then? A-Yes sir, they sent uprepresentatives. For instance Galland's Grove district in the misxion in Missouri Valley sent up a delegate to the conference.

1059 Q-Were these then districts or were they conferences?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason it is incompetent, irrelevant and immeterial, and not the best evidence, or proper re-cross examination.

A-Districts.

1060 Q-That was in 1860? A-Yes sir.

1061 Q-What were they called? A-Sometimes they are called districts or conferences.

1062 Q-Well has the representation in the general conferences been from districts ever since 1860? A-Yes sir.

1063 Q-In the re-organized church? A-Certainly.

1064 Q-Now is there any othere representation in a district,-I should say in a general conference, other than the representation by delegates?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immeterial, not the best evidence, and not proper re-cross examination.

A-What do you mean?

1065 Q-Any other representation in the General Conference, besides the representation from Districts?

Coubsel for the plaintiff objects to the question for the reasons

ststed above.
1066 Q-Answer the question? A-Yes sir,there is general ex-officio officers.
1067 Q-There is "ex-officio"officers in the conferences? A-Yes sir.
1068 Q-That is in the general conferences? A-Yes sir.
1069 Q-Well now was there representation by districts in the old church ~~ch~~ prior to 1844?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is immeterial and irrelevant and not the best evidence or proper cross examina-tion.
A-I suppose there was.
1070 Q-Do you know anything about that? A-Nothing only what the record shows,and it shows that there was districts.
1071 Q-Do the records show that? A-Yes sir'
1072 Q-Did you ever see any of the records of the old church prior to 1844? A-Yes sir.
1073 Q-You did? A-I did.
1074 Q-You are sure of that? A-I am. I had a brother laboring in ~~kxx~~ a district or conference. I don't know how it was,for I don't know much about whether they were called districts then or conferences,-I don't know especially how that was,-but I think it was interchangeable,for they are the same as I under-stand it. Conferences or districts,-I would use the term interchangeably now.
1075 Q-What record was that you referred to? A-The representation in the conference. They had conferences from '42 to '44,and the minutes of these conferences I remember myself for I noticed them.
1076 Q-Are you sure that this rule prescribing the qualifications of eligibility to the office of delegates from the district to the General Conference was in force then? A-I do not know that there was any special legislation,as is found there.
1077 Q-You don't know that there was any special rule in that regard? Is that what you wish to be understood as saying? A-This is a,-this is the result of that which was really in practice all the time,and this we have now is simply a rule for the government of the church in that respect. I never read that through in my life and I do not know all that is in that book (referring to exhibit four) So far as the specific details are concerned,I do not know them,but of course I understand the general details very well. I have been President of Dis-tricts and Missions for years and years,over thirty years sir have I myself occupied these ~~portions~~ positions,and I know what I am talking about I think.
1078 Q-Well if you have,then I suppose you are acquainted with rule three,and to see whether you are not,I will ask you if you recognize this as a rule that governs the church. Read from the paragraph next to the one you have just read,and which is numbered three in exhibit four,the book of "Rules of Order and Debate",and in the sub heading of "Rules of Representa-tion",which begins with the words"Each district shall be en-titled to,etc"?A-"Each district shall be entitledto one del-egate for every twenty five members of said district,and one vote in conference for each delegate to which they may be entitled".
1079 Q-Now I will ask you if you recognize that rule as in force and practiced in the re-organized church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons above set forth.
A-Well I do not know how long that has been there in its specific

detail. I do not remember I wish to say, when these rules were accepted in their specific detail as they are there now.
1080 Q-Well I did not ask you that. I ask you if it is in force now in the re-organized church? A-Yes sir.
1081 Q-You state if advance you don't know when it was a adopted in its form? A-No sir.
1082 Q-Will you state how long the practice has been that each twenty five members in a district shall have one vote in a conferen-ce.
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irre-levant and immeterial,and not proper re-cross examination, and doesnot call for the best evidence.
A-I don't remember.
1083 Q-Was that the practice in 1852? A-I cannot say.
Counsel for the plaintiff objects to the question on the grounds above set forth.
1084 Q-What is your answer? A-No sir.
1085 Q-Were you at any conference before 1860 and after 1852?
A-Yes sir.
1086 Q-What ones were you at? A-At numbers of them,but I don't remember just what ones. I was at one at Zerah Hemla.
1087 Q-Do you remember that twenty five members was the constituency of a delegate at that time? A-I don't think they were.
1088 Q-How was it in 1860? A-That practice had been the out-growth of what was a principle,and now it has been adopted or adapted so that each delegate will represent so many members of the church.
1089 Q-Do you know whether or not this rule was in force in the old church? A-No sir.
1090 Q-You do not? A-No sir.
1091 Q-Do you recognize what I am not going to read,which is paragraph four on the same page,entitled"rules and restrictions of delegate voting". It is as follows,-"The delegates present at Conference from any one district,shall be entitled to cast the full vote of the district of which they are delegates, unless otherwise instructed by their district conferences. Provided that in case of a dis-agreement of views among the members of said delegation,(the full delegation not being present),they shall be entitled to cast only their individual votes,as said delehats". Do you recognize that?
Counsel for the plaintiff objects to the question on the ground that it is not re-cross examination.
A-Yes sir.
1092 Q-You do recognize it? A-Yes sir.
1093 Q-Do you know wehn that was put in force? A-No sir.
1094 Q-Was it put in force in 1860? A-No sir,I don't know whether it was or not.
Counsel for the plaintiff objects to the question asked the witness on the ground that it is not re-cross examination.
1095 Q-Here is rule five,see if you recognize it:-"No one delegate shall be entitled to cast as representative in the same Conference,more than twenty votes". What do you say to that?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and not proper re-cross examination

A-What is the question?
I096 Q-You he4rd what I have just read? A-Yes sir.
I097 Q-Well what do you say to that? A-That is the rule of the church now.
I098 Q-Do you know when that was made the rule of the church?
Counsel for the plaintiff objects to the question for the reasons above given.
A-No sir I do not,but I presume that gives the date.
I099 Q-Was it the rule of the re-organized church in I860,or prior to that time?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason it is incompetent,irrelevant and immeterial,not the best evidence,and improper re-cross examination.
A-No sir.
I100 Q-And you do not know whether it was the rule of the old church?
Counsel for the plaintiff objects to the question asked the witness on the grounds above set forth.
A-No sir.
I101 Q-Now I will see if you recognize section one hundred and seventy seven on page one hundred and sixty of the same book,-exhibit four,-entitled "Representation of Branches ,not in Districts"
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons above set forth.
I102 Q-I will read the section now that the gentleman has made his objection. It is as follows,-"Each regularly organized branch of the church not included in an organized district, shall be entitled to one delegate,who shall have the same priveleges as delegates of districts.
Rule for choosing of Branch Delegates.
Due general notice to the members of branch of the time and place of meeting for the choosing of said delegate shall be properly given,as in cases of districts". Do you recognize that as the law of the church at the present time? A-Yes sir
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immeterial and not the best evidence,and not proper re-cross examination.
I10[illegible] Q-You say that is the law of the church at the present time?
A-Yes sir.
I104 Q-Was that the law of the church in I860? A-Yes sir.
I105 Q-Or before that time? A-Well I don't know that there was any specific rule in that regard.
I106 Q-Do you know whether there was any such a rule practiced in the unorganized church prior to 1844?
Counsel for the plaintiff objects to the question on the grounds above set forth.
A-No sir.
I107 Q-Do you recognize under the same section this rule which I have read,-"Due general notice to the members of branch of the time and place of meeting for the choosing of said delegate shall be properly given,as in cases of districts".
Counsel for the plaintiff objects to the question for the reasons above set forth.
A-Yes sir.
I108 Q-You recognize that as a rule and law of the church? A-As a rule of the church I recognize it.
I009 Q-Was that in practice before I860?

Counsel for the plaintiff objects to the question on the ground that it is incompetent,irrelevant and immeterial,not the best evidence,and not proper re-cross examination.
A-I do not know.

III0 Q-You do not know that that was a rule in the old church,or whether there was such a rule in the old church? A-No sir.

III1 Q-Section one hundred ans seventy eight on page one hundred and sixty one of the same book,entitled,"Certificatesm of Appoint-ment required",and which is as follows,-"Delegates shall be entitled to act as such as here-in-before provided,upon presenting certificates of appointment,signed by the Presidents or clerks of districts,or branches appointing them"Do you recognize that as a rule in force now?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons above setforth.
A-Yes sir.

III2 Q-Was that a rule in I852 in the church?

Counsel for the plaintiff interposes the same objection as is last set forth.
A-No sir.

III3 Q-In I860?

Plaintiff interposes the same objection.
A-It was not.

III4 Q-Was it a rule in the old church? A-Not that I know of.

III5 Q-I will now read section one hundred and seventy nine one page one hundred and sixty one of the same book,and ask you if that is in force now,and when it was in force andwhen it was not in force? It is as follows including caption,-"Instructing delegates;Number of votes to be cast by;Tie votes,etc. In all cases of great importance affecting the polity and faith of the church,districts and branches may instruct delegates to cast a majority and minority vote for and against,-But in no case shall the number of the votes ~~xxxx xxxxxxxx~~ cast be said delegates so instructed exceed the number to which the district appointing shall be entitled,as here in be ore provided,-
And in case of a tie in districts or branches,on questions presented to them,certified to said delegates,the votes of said districts or branches,shall be cast in equal numbers by the delegates". Do you now recognize that as the law of the church at the present time? A-Yes sir.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immeterial,not the best evidence,calling for an opinion of the witness,and not proper re-cross examination.

III6 Q-Was it the law of the church ten years ago? A-I can't say.

III7 Q-Well what is you best impression as to that? A-I can't remember when it was introduced.

III8 Q-Was it the law of the church in I860? A-I think not.

III9 Q-Was it the law of the church in I865 or '70?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds above set forth.
A-I don't know when it was introduced?

II20 Q-Did you ever see that in any of the rules purporting to have governed the church prior to I844?

Counsel for the plaintiff objects to the question for the reasons and on the grounds above set forth.
A-I never attended a confdrence before I864.

II2I Q-I will read to you from section one hundred and eighty ~~fwx~~ of the same book on page one hundred and sixty two,under the paragraph or section entitled"Organization ~~of~~/ and Membership of Delegate District Conferences",-Districts may organize their sessions of conference agreeably to the above rules,by providing for delegate conferences,of which the basis of repr-esentation shall be one delegate for each six members in each branch,or fraction thereof. Districts may constitute priests,Teachers and Deacons as members of their Conferences, as well as the Elders,if they choose". Is that they law of the church at the present time?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immeterial,not the best evidence,nor proper re-cross examination,and calls for an opinion of the witness.

II22 Q-Do you recognize that as a rule in force in the church at the present time?

Counsel for the plaintiff objects to the question for the reasons last above stated.

A-I.think it is not.

II23 Q-You think it is? A-Yes sir.

II24 Q-And you have the same answers to make do you about this rule as you do about the others?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,not proper re-cross examination and calls for an opinion of the witness.

A-I think it is.

II25 Q-Was that the rule prio to I860?

Counsel for thexplaintiff objects to the question asked the witness for the reasons above set forth.

A-I think not as detailed there.

II26 Q-Was it a rule in the church prior to I844?

Counsel for the plaintiff objects to the question asked the witness on the ground that is is incompetem t,irrelevant and immeteri-al,not proper cross examination,and not the best evidence.

A-Not that I know of.

II27 Q-Now I have only a few other questions to ask you, Now you have stated on your direct or re-direct examination that you have heard the preachers,-that you have heard some of the preachers of the Utah Church at Salt Lake,-The church of Jesus Christ of Latter Day Saints,I believe they call themselves,-preach doctrines that ~~xhexrexorganizedxbxrexx~~ your present organization can't endorse,-that is doctrines that the Re-organized church of Jesus Christ of which you say you are a member did not endorse these doctrines that you heard these parties in Utah preach ? A-Yes sir.

II28 Q-And that the old organization did not hold? A-Yes sir.

II29 Q-Or endorse? A-Yes sir.

II30 Q-That the old organization before the death of Joseph Smith,or as it existed in that time,did not endorse? A-Yessir

II3I Q-I believe you make that statement? A-Yes sir I believe I did, but whatever it was I dis remember it.

II32 Q-Well is ~~xx~~ that the fact? A-Possibl y I do not understand the question. What is the question Pl ease.

II33 Q-I said that you had stated in your cross examination,-I should say in your re-direct examination,that you had heard the preachers or teachers of the Utah branch of the Mormon church, preach and teach doctrines which the re-organized church of Jesus Christ of

Latter Day Saints does not believe in or endorse,and which it does not hold?,and which the church prior to 1844 did not hold? A-Yes sir.

II34 Q-Is it not a fact that when ever you go to a church not your own, that you hear the same thing?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason it is immeterial and irrelevant to any issue in the case.

A-No sir.

II35 Q-That is not a fact? A-No sir,not always.

II36 Q-Well is it not almost alwaysthe fact? A-No sir,forvery many times we go and hear other denominations preach just what we believe our selves.

II37 Q-I understood you to say,but I may be wrong about it,and if I am now is a good time to correct the error? A-Yes sir,I agree with you,-

II38 Q-That no one could believe in the bible and not believe the book of Mormon and the book of Doctrine and Covenants?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial.

A-I do not think I made that statement.

II39 Q-You did not make that statement? A-No sir,I think not,-I have no recollection of making a statement like that.

II40 Q-And did you not say that because the book of Mormon,and the book of doctrine and covenants were books in perfect accordance with each other and ~~xxx xixix~~ with the bible,and confirmed the bible. Do you not say that in substance? A-I said that they were in harmony,and the conclusion you speak of was a sequence that followed that.

II41 Q-They were a sequence to that,to the bible? A-Yes sir.

II42 Q-And a belief in the bible did you not say,involved a belief in these other books? A-Yes sir that would follow as a natural consequence,-a natural sequence od development.

II43 Q-And that the man couldn't be then a true,christian believer ~~xxx~~ unless he believed in these sequences,as you have stated them? A-No sir,I did not say that.

II44 Q-And that is not your testimony? A-No sir,and it is not my belief either.

II45 Q-That is not your belief? A-No sir,nor the belief of the church I represent. The church neither believes or teaches such a thing as that,and my ideas on that question are in harmony with the ~~xxxxxxx~~ teachings of the church.

II46 Q-Then is it the belief of the church you represent that all it is essential to believe is the bible? A-No sir.

II47 Q-I believe you stated it was enough for fwlb wship in the church which you represent? A-To believe in the doctrine of Christ as taught in the bible,I said. (was enough) If I did not say that,that is what I meant to say,and I say it now.

II48 Q-There seems to be in this pamphlet entitled the "words of consolation",marked exhibit "IO",on pages twenty one and twenty two and twenty three,a statement that has been attached to the pamphlet and published with it,and which you were asked to look over in your re-direct examination,and to point out if there was any authorization for its publication ,anywhere between the pages,and you looked over it and said that you found no authority in these pages for its publication.Now do you in fact know the authority

for the insertion of these pages in that pamphlet?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is immeterial and not the best evidence.

II49 Q-Do you in fact know what is the authority for these three pages?
A-Yes sir.

II50 Q-Well please state what it ks?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that itis irrelevant and immeterial and does not call for the best evidence

XX Q-After this was in manuscript and presented to the conference it accepted it.

II5I Q-What do you mean by "this? A-I mean this part of the pamphlet.

II52 Q-You mean all that pary of the pamphlet preceeding these three pages? A-Yes sir,all precedding these three pages referred to,and then those that had it in hand were directed to publish this part.

II53 Q-This was published afterwards? A-Yes sir after the first part was presented to the church and it was accepted,those that had it in hand became satisfied that it was not explicit enough upon that one sumbject and they,and they decided that three pages more should be written bythe committee and there they are, It was entrusted to this committee,-I know that much,but how the actual work was done I do not know how that was done,but it was permitted to be done or it would not be there I suppose.

II54 Q-Was it done by the same committee that published the preceeding pages?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is hearsay,incompetent,irrelevant and immeterial,and not the best evidence.

A-I would not say whether the whole committee was associated ~~xit~~ together in the work,but there ~~there~~ was one of the committee that wrote it.

II55 Q-If I don't misrecollect your testimony,you stated that there was other authorities that induced the committee to write it,and if there was I would be glad for you to state what that authority was?

Counsel for the plaintiff objects to the question asked thexwitness on the grounds and for the reasons that it is incompetent, irrelevant and immeterial,not proper re-cross examination,and not the best evidence and hear say.

A-I do not remember that I stated there was any other authority.

II56 Q-By virtue of a revelation received by them,did you not say that?
A-Perhaps they did. I cannot say as to that,-at any rate they were moved upon and came to the conclusion to write it,but how it was done,or how they arrived at the conclusion to write it is something I cannot tell you for I do not know. It was reasoned over,and finally it was concluded that there should be three pages more written.

Counsel for the plaintiff moves the court to exclude from the record the answer of the witness to the two last preceeding question for the reasons urged against the question to which they were answers,and on the additional ground that they are hearsay.

II57 Q-Did you ever see a revelation?

Counsel for the plaintiff objects to the question asked the witness

on the ground and for the reason that it is immeterial and ir
-relevant and not the best evidence.

II58 Q-Did you ever see that revelation? A-What revelation?

II59 Q-That commanded them to write these explanatory pages? A-No sir

II60 Q-Was this pamphlet as published ever brought to the attention of the conference? A-I cannot say of my own knowledge.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is not the best evidence,is incompetent ,irrelevant and immeterial,and not proper re-cross examination.

II6I Q-What did you say in answer to that question as to whether or not this pamphlet as published was ever brought to the attention of the conference? A-Never that I know of. Not with these three pages added, I do not know that the ~~xxxxxx~~ conference ever spoke on the pamphlet with these three pages.In fact I do not know of my own knowledge that the conference ever spoke upon it at all,-all that I know is what I asee in the documents there itself,and you of course would know as much about that as I would.

II62Q-Can you say whether or not the conference,or any conference of the church has ever repudiated any of this pamphlet?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immeterial,and not proper cross examination.

A-~~I don't know anything about it at all~~. *I don't know that they ever have.*

II63 Q-You don't know anything about that? A-No sir,-if they have done anything of the kind I have never heard of it.

II64 Q-Is it not accepted by the church as authentic,for what it purports to be?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immeterial,and not proper re-cross examination

A-Yes sir,like they do all their works. They are all accepted for what they purport to be. It was presented as a tract giv ing an exposition of our position as ~~xxxx~~ we held then. I mean the position of our church.

II65 Q-By what authority was it published?

Counsel for the plaintiff objects to the question asked the witness on the ground ~~xxx xxx xxx xxxx~~ that is is improper re-cross examination,and does not call for the best evidence

A-With the exception of these three pages it was done by order of the conference.It should be published that way,and pur -ports to have been so published,-that is all of it with the exception of the three pages,and as for these three pages I do not know anything more about them than that they were adde -ed afterwards,but what was the real interest or motive promp -ting such addition I do not know except as I have alread stated.

II66 Q-You spoke of a revelation,and quoted from one,on which you based what you called the rejection of the church,in which I will ask you if you recognize from exhibit "J",on page three hundred and sixat paragraph fifteen,the following,-"Verily,verily,I say unto you that when I give a commandment ~~xxxx yxx~~ to any of the sons of men,to do a work unto my name,and those sons of men go with all their mights,and with all they have to perform that work,and cease not their diligence,~~behold it behooveth me to require~~ and their enemies come upon them and hinder them performing that work,behold it behooveth me to require that work no more at the ~~xxxx~~ hands of those sons of men,but to ~~exeet~~ *accept* of their offerings;and the iniquity

and transgression of my holy laws and commandments I will visit upon the heads of those who hindered my work,nto the third and fourth generation so long as they repent not,and hateme,saith the Lord God. Therefore for this cause have I accepted the offerings of those whom I commandedto build up a city and a house unto my name,in Jackson County Missouri,, and were hindered by their enemies,saith the Lord your God; and I will answer judgement,wrath and indignation,wailing and anguish,and gnashing of teeth upon their heads,unto the third and fourth generation,so long as they repent not and hate,me,saith the Lord your God." Do you recognize that?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel evant and immeterial,and not proper re-cross e xamination.

II67 Q-Do you recognixe that?

Same objection.

A-I do.

II68 Q-Do you know to what event that language belonged?

Counsel for the plaintiff objects to the question on that ground that it/is irrelevant,incompetent and immeterial,and not prpper re-cross examination.

A-Yes sir.

II69 Q-To what event do s it belong? A-The work commanded to be done in Jackson County,Missouri,I think,Or in Missouri anyhow,I will say.

II70 Q-Is it quoted by you also with reference to the building of a temple at Nauvoo?

Counsel for the plaintiff objects to the question for the reason that it is incompetent,irrelevant and immeterial,and not proper re-cross examination.,and calling for an opinion of the witn -ess only.

A-I do not remember the connections now, Iwould have to look the revelation over a little before I could answer as to that (witness examines the revelation referred to)

II7I Q-Can you answer that question now?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds above set forth.

A-Yes sir.

II72 Q-What is it? A-It was in view of a work commanded to be done there,and they failed to do it. They made the effort to do the work commanded to be done,but their efforts failed,and the Lord said the responsibility should rest upon others,and not themselves for not performing that work.

Counsel for the plaintiff objects to the question asked the witness on the grounds that it is immeterial,and not relevant to any issue in this case,and not proper re-cross examination,and hearsay,and the opinion of the witness,and moves the court to exclude from the record the answer of the witness for the same reason.

II73 Q-Now then you said in your re-direct examination that you recogn -ized the time of the rejection of the church from circumstan -ces that occured? A-Yes sir.

II74 Q-That filled the measure of the revelation? A-Yes sir

Counsel for the plaintiff objects to the question asked the witness and moves the court to exclude from the record the answer of the witness to same upon the grounds and for the reasons above set forth.

II75 Q-You do? A-Yes sir.

II76 Q-Now then if these other instances should occur to prevent the happening of the event from the enemies of the church,

coming

you would not expect to see the event fulfilled,would you?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel -evant and immeterial,is not re-cross examination and calls for an opinion of the witness only.
A-No sir.

I77 Q-Why not?
Counsel for the plaintiff objects to the questiom for the reasons above set forth.
A-The revelation provides against that.

II78 Q-That is what that is intended for,is it not? A-Yes sir,another paragraph prOvides against any such contingency sir.

II79 Q-In what respect? A-In that the Lord said"I will give you suffi -cient time to do it,and if you do it in that time you are accepted,and if not you are rejected".

II80 Q-Well,who is the judge of the sufficiency of the time?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is ~~xxxxxxxxxxxx~~ inmaterial and irrelevant and not proper re-cross examination and calls for an opinion of the witness.
A-The fact that they were moved from that place is evidence the time had come for it, That appears as reflected from the revelation itself.

II8I Q-Is it not a fact that as to whether the revelation given there, or purported revelation has been filled or not by the happening of events,a mere matter of judgement of those,or on the part of those who read it,and are guided by it?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it calls for an opinion of the witness,is incompetent,irrelevant and immeterial, and ~~not~~ improper re-cross examination.
A-It is a fact that the promise is made that if they did so and so,a sufficient time should be given them for the building of the temple,and if they did so they should not be moved out of their place,and if they did not they should be rejected as a church.

II82 Q-Wellas to whether they did or did not do that,is that not a mere matter of judgement?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel -evant and immeterial,not proper re-cross examination,and calls for an opinion of the witness only.
A-No sir it is a matter of fact that they did not buildit, They did not do it,and that is a matter of fact.

II83 Q-Does not the judgement sit supreme over facts?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immeterial,not proper re-cross examination and calls for an opinion of the witness.

II84 Q-Are not facts addressed to the judgement,and is not the judgement the argument?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A-It is a fact that I walked down here from where I got my dinner and it is also my judgement that I did so.

II85 Q-It is a fact that you came back here pretty well pleased,and your judgement tells you that you had youdinner,and it is the judgement of all that look at you that you have a good dinner,yet they would know the fact only from ?
A-Yes sir it

is a matter of fact and judgement both.
II86 Q-It is a mere matter of fact and judgement?~~mmkx~~ A-Yes sir.
By Mr Kelley,-"We move the court to exclude the last fiftenn questions asked the witness and the answers thereto,on the ground that they are incompetent,irrelevant and immeterial,not proper re-cross examination and calling for an opinion of the witness only".
Re-direct examination by Mr Kelley,-
II87 Q-I will ask you this question Mr Briggs on re-direct examination ,-is it not necessary to have the fact of a proposition in order to form a correct judgement? A-Yes sir,the fact preceeds the judgement,and unless you have a clear realization of the fact you cannot form a satisfactory judgement.
II88 Q-You were asked about the representation in the old church Mr ~~Briggs~~ witness on your re-cross examination. Now Iwill get you to look at exhibit "L",-state whether you ever saw that book(handing witness exhibit "L")or one like it before?
A-Yes sir.
I009 Q-What book is that? A-It is the"Times and Seasons".
II90 Q-Is that the book you referred to yesterday and to-day during ~~this~~ your cross examination as having read them as they were published in I842 and '43? A-Yes sir.
II9I Q-Look at the minutes there recorded of a conference on page seven hundred and sixty three,and answer if that is what you referred to? A-Yes sir.
II92z Q-Now after having refreshed your recollection Mr Briggs I will ask you if that is the representation you referred to that you read out of the old church at the time?
By Mr Southern,-"Let me have a word to say right here. I say that I object to the reading of what purports to be the minutes of a conference in the Times and Seasons,because there is no evidence that what purports to be such minutes are in fact the minutes of the conference,and because the original records of the conference are the best evidence."
By Mr Kelley,-
II93 Q-I will ask you Mr Briggs if that was the official paper of the church in I842? A-The Times and Seasons?
II94 Q-Yes sir? A-Yes sir.
II95 Q-It was the official church paper at that time? A-Yes sir.
~~XI28XXX~~ This was published in I84I though.
By Mr Southern-
II96 Q-You were~~x~~ six years old then? A-Yes sir. Well I was six years old about.
By Mr Kelley-
II97 Q-That is in there in I842,-in the issue of I842,but it was for the conference of I84I? A-Yes sir.
II98 Q-That is the fact? A-Yes sir.
II99 Q-What month in I84I? A-In April. The occurence took place before I.was acquainted with ~~this~~ the work it seems,for in I842 was the time ~~that~~ when I first became acquainted with the work.
I200 Q-Read it? A-Conference minutes on page seven hundred and sixty three,in exhibit "L",I shall read from the third paragraph. "Reports of delegates being called for,Elder Foster reported that the whole number ~~of~~ of persons that had been received into the Branch ~~at Nauvoo~~ was two hundred and ~~forty~~ two,of of which two hundred and seventy nine were received by baptism and confirmation and thirteen by certificate,-"
I20I Q-That does not pan out right,-that is not it? A-Of these four have died ninety six moved away and thir een have been excommunicated

leaving one hundred and seventy nine,of whom there are a President and two scounsellors,a bishop and two councillors, eleven elders,two priests,one teacher and two deacons".

I202 Q-That is not it?

By Mr Southern,-"Put it in there that counsel for the plaintiff says it doesnot pan out right".

By Mr Kelley,-"Counsel for the plaintiff says they do "pan out right"

Let me read it".

By Mr Southern,-"No you need not read it,-let the witness read it"

By Mr Kelley,-

I203 Q-Read thex paragraph again? A-Reports ofdelegates being called for,Elder Fo ster reported that the whole number of persons who had been received into the branch at New York was two hundred an ninety two,of which two hundred and seventy nine were received by baptism and confirmation,and thirteen by cer-tificate. Of these four have died ninety six moved away,and thirteen have been excommunicated,leaving bone hundred and seventy nine,of whom there are a President and two councillors,a bishop and two councillors,eleven Elders,two priests, one teacher and two deacons".

The Branch at Setauket,Long Island was represented by Benjamin Hulse teacher. The branch was organized on the 27th of March 1841 with eighteen members,two of whom had been preachers,-one a Baptists and the other a Methodist. The number has since been increased to forty three,of whom six have been cut off,leaving at present thrity seven,among whom there are two elders,three priests,one teacher,and one deacon,organized and built up chiefly by elder Sparks. The cause is still progress-ing in that place". Is that sufficient?

By Mr Kelley,-"We will have all these conference minutes run in if you want it?

By Mr Southern,-"I am not wanting it run in, You can run it in if you want to ,but I am not asking for it."

By Mr Kelley,-"No sir,of course you are not wanting it. We don't expect you will want itoeither."

By Mr P.P. Kelley,-

I204 Q-You may turn to page one hundred and fifteen of exhibit "L", and read the conference minutes there,-read the date and all?

By Mr Southern,-"Take my objection to that also,-it is the same objection that I urged against the other conference minutes,or wha tpurports to be a copy of the conference minutes".

By Mr Kelley,-"Let the record show that this is the same book that was identified by Joseph Smith and William Blair when they were on the witness stand,and which was used in connection with their testimony,and also by James Whitehead,and that is the time when it was marked as an exhibit,during the taking of their depositions."

I205 Q-Youmay now proceed and read the minutes on page one hundred and fifteen? A-"Minutes of a conference of elders and members of the Church of Jesus Christ of Latter Day Saints,held in the city of Philadelphia,Saturday October xxx I7th,I840".I have read the heading of the record,and beginning at the middle of the page two hundred and fifteen in the right hand column at the words"Elder J Barnes",I will read as follows,-"Elder J Barnes represented the church in Philadelphia in a prosperous condition,and numbering,including two elders and three priests,two hundred and fifty.

Elder George J Adams represented the church in New York in a flourishing condition. He stated that three places for regular preaching were now established in that city,and their prospects were never better before,nor as good as at the present time;and that according to

best of his knowledge,the church in New York,including the eldersnow numbers over two hundred members.
Elder Adams also represented the church in Brooklyn,Long Island,in a flourishing condition,consisting of nineteen members,including one priest,one teacher and one deacon. Also the church in Hempstead Long,Island,in the care of Elder Lane consisting of fifty members.
Elder Adams also represented three other small branches of the church in Monmouth,County,New Jersey,under the care of Elder J.G. Devine,One in Shrewsbury containing sixteen members. One at Keyport and Granville,numbering thirteen,including one deacon;and the other at Shirk River of six members including one deacon,thirty five in all.
The last two branches having been built upsince April last by Elder Devine. He stated that seven had lately been baptized in the city of Newark,New Jersey;and gave a very glowing and cheerful discription of the spread of the work of God in the regions round about New York. He stated that he had preached to five thousand persons at one time in the City of Newark,New Jersey,who listened with attention,and apparent admiration and surprise to the everlasting gospel,and to use his own words,-"the work of God was flourishing gloriously,-the Macedonian cry was general;not to come over to Macedonia,but to come over to Brooklyn,-and over on Long Island,come over to Elizabethtown and to Newark and to Jersey City,and let us hear the fulness of the gospel of Jesus Christ proclaimed".
Whole number represented by Elder Adams three hundred and eleven.
Conference adjourned for one hour and a half.
Two o'clock P.M. conference again assembled.
Elder N. Malen represented the Brandywine church in Chester County,Pennsylvania in a flourishing condition,numbering one hundred and thirty five in good standing,including four elders three priests and one teacher and one deacon." Is that sufficient?

I206 Q- Yes sir that will do unless these gentlemen want more,and if they do I think we can give it to them?

By Mr Southern,-"Well we did not call for it. I suppose you gentlemen are running your side of the case. I object to all this that has been read for the reasons given in the objection to the question to which it is an answer."

By Mr Kelley,-"That is all".

Re-cross examination by Mr Southern,-"

I207 Q-You have been asked to read from the Times & Seasons by the attorney for the plaintiff,and you have complied with his request? A-Yes sir.

I208 Q-And it becomes proper,therefore,I think to ask you whether the Times & Seasons,from which you read,was in any manner an authorized publication of the church prior to 1844?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is improper re-cross examination.

A-It was an organ for the church,-it was the organ of the church.

I209 Q-Now if the paper itself says that the Times & Seasons was printed and published about the first and fifteenth of every , month at Nauvoo ,Hancock County,Illinois,by E.Robinson and D. C. Smith,editors and proprietors,does it properly represent What the Times and Seasons was? A-It represents them as being the editors as I understand it.

I210 Q-And as publishing the Times & Seasons? A-Yes sir.

I211 Q-It represents them as the editors? A-Yes sir

I212 Q-I also said in reading from it " editors and proprietors"? A-

A-Yes sir.

I2 I30-That is correct? A-I presume so. I have no reason to doubt it.
I2I4 Q-Does that mean that it was a church publication? A-I do not know what was involved in that.
I2I5 Q-Involved in what? A-How they were appointed,or how they came, that is to say how they became the editors and proprietors, There msy be something explanatory on the subject,but however that was it was understood by the ~~nxnarx~~ editors,-I mean to say it was understood to be the church organ,or the church paper the same as the Saints Herald is now.
I2I6 Q-It was the church organ? A-Yes sir,that was what I understood it to be,-I may say it was the church organ,to a greater or lesser extent.
I2I7 Q-Do you know whether ~~x~~ it was ever published by a Board of Publi cation,authorized by the church? A-I do not know.
I2I8 Q-That is all I have to ask the witness".
By Mr Kelley,-
I2I9 Q-From the page seven hundred and eighty two,from which you have just read in the Times and Seasons,just read what it is at the head of that issue of the publication? A-The Times ans Seasons is edited by Joseph Smith,printed and published about the first and fifteenth of every month on the corner od Water and Bain Streets,in Nauvoo Hancock County, Illinois, by Joseph Smith,terms, Two dollars per annum,payable in all cases in advance."-
I220 Q-Well that is sufficient. Now was not Joseph Smith the President of the church,-the Joseph Smith referred to? A-Yes sir at that time he was the President of the Church.
I22I Q-And what else was he? A-He was also at the same time editor of that paper or publication.
By Mr Southern,-
I222 Q-Is there anything at the point,or in the neighborhood of the place where you read,showing that Joseph Smith was authorized to publish it by the ~~xxixxx~~ Church? A-I will answer you question by saying that I do not know how it was authorized, but I do know that he was the President of the Church at that time.
I223 Q-At that time? A-Yes sir.
By Mr ~~xxkxxy~~-P.P.Kelley,-
Let the record show that by consent of the parties the signature of this witness to this his deposition,-that is to the transcript of his evidence when written out by the reporter or Notary taking it,is waived,as i s also the signature of the witness William B. Smith to the transcript of his testimony here-to-fore given.
Witness fees,being for I86 miles at I0 cents per mile,and two days attendance as a witness amounting to $I8.00 paid by plaintiff.

Dr Chas Johnson

Ed E. C. Bragg

Ms d 1160 Box 1 fd 8

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Hiram Rathbun,Senior, of lawful age,being produced,sworn and examined on the part of the plaintiff,testified as follows;-

Direct Examination by Mr. P.P.Kelley,-

I Q;-Please state your name to the reporter?A- Hiram Rathbun.

2 Q-Mr.Rathbun you may state where you live? A-At the present time?

3 Q-Yes sir? A- At Lansing,Michigan.

4- Q-Where did you live prior to going to Lansing? A-I lived in the town of Onedia, Eaton County, Michigan. Grand Ledge was my post office address.

5 Q- What is your age at the present time Mr.Rathbun? A- I was seventyone my last birthday. The third day of April last I was seventy one.

6 Q-What has been your profession Mr.Rathbun? A-Do you mean as an avocation of life?

7 Q-Yes sir? A- The profession of medicine.

8 Q-How long have you been practicing medicine? A-Well since from about the last of '46 up to about two or three years ago.

9 Q-You followed the pursuit of the practice of medicine until recently then? A-Yes sir, until up to the last two or three years, I did, but since then I have not been practicing any to amount to anything much.

IO Q-Did you ever live in the State of Missouri? A-I did.

II Q-When,-first state when you first come to the State of Missouri to live? A-It was in the latter part of the summer,-very late in the summer of I83I, and I remained there, or rather here in the State of Missouri until in the month of November I833.

I2 Q-What county did you live in? A-In the county of Jackson.

I3 Q-At what place in Jackson County, did you live Mr.Rathbun? A-At Independence.

I4 Q-Here in the City of Independence? A-Yes sir, but it wasn't a City at that time,-it was just a small town or village, for there was not a great many people living here at that time,-the country was not very thickly settled.

I5 Q-Who else was here at that time that you were aquainted with? Name some of them if you can Mr.Rathbun? A- Well there was Peter Whitmer, and David Whitmer, and John Whitmer. There was a number of the Whitmer family living here at that time,but I would not pretend to state all of their names,-nor would I say that all of them were here,but at any rate there was a number of the Whitmer family here at that time,- there was enough of them ~~of them~~ here to make what was called the ''Whitmer Settlement'', six or seven or eight miles, or such a matter ~~a mat~~ from the village,and there was also a number of others here. I can't begin to remember the names of all that were here, but I remember that there was one William Waterman Phelps, I believe his given name was William Waterman Phelps,- it was W.W.Phelps any how. Oliver Cowdrey was also here, and a Mr. Gilbert,- It rather strikes me that his name was Sidney Gilbert, but I wouldn't be positive about his given name, but it was a Mr. Gilbert, and he kept a store down here on the square somewhere.A good many of the people that were here at that time, I can't now remember but I remember the ones I have mentioned all right, and there is probably others that I would remember if my memory was refreshed.

I6 Q-Do you remember a man that lived here at that time by the name of Edward Partridge, if there was such a man?

Counsel for the defendent objects to the question asked the witness on the ground and for the reason that it is leading.

A-Who did you say?

I7 Q-Edward Partridge? A- Yes sir, I was quite well aquainted with Edward Partridge.

I8 Q-What was his business? A-Well he was a bishop for the church here at that time.

I9 Q-He was a bishop for the church you say? A-Yes sir.

20 Q-Of what church was he the bishop? A-The Church of Christ of Latterday Saints.

21 Q-He was the bishop of the church ~~of the~~ as it existed at that time? A-Yes sir.

22 Q-Now did all the other persons you have mentioned and named belong to that same church? A-I believe they were members of the church. Yes sir,-all that I have named belonged to that church, but there ~~there~~ were some citizens here outside of those that I have named that belonged to the church, but I can't remember their names and there were others living here too, that did not belong to the church. I don't remember many of the people who lived here at that time but I do remember some of their names, ~~their names~~.

23 Q-Was your father here at that time? A-Yes sir.

24 Q-What was his name? A-Robert Rathbun.

25 Q-He belonged to the Church of Jesus Christ of Latterday Saints did he not? A-Yes sir.

26 Q-What was his business? A-He was a blacksmith. He was a blacksmith by trade, or followed that as an avocation of life.

27 Q-Were you a member of the church at that time? A-Yes sir.

28 Q-When did you become a member of the church? A-I joined the church in the month of November 1831.

29 Q-Where were meetings held here by the church at that time? A-Well they had a log house that they used as a school house and meeting either there on the temple plot,- ~~I call it temple plot~~, or very near by it. I would not say postively that it was on it,but if it wasn't on it, it was near by it, and in pleasant weather in the summer time and the fall when they were having two days meetings at a time,-for they would have two days gatherings, and they had them on the temple plot in the west,-

30 Q-Where did Edward Partridge live at that time? A-He lived in a log house there on the temple plot,-I call it plot, some people called it the temple lot,- at any rate he lived in a small house there on the temple lot or plot or close by it, for I wouldn't say postively it was on it, but if it was not on it it was close by it.

31 Q-Where ~~about~~s was it as nearly as you can remember? A-Well that has been a great many years ago,and I was quite small at the time I remember ~~quite~~ well where his house was, and believe I could go to it if the town was now as it was then, but things have changed so much I can not say as to that. I am under the impression that it was on the temple plot, at any rate if it wasn't on it,it was very close to it. I could not say really whether it was on the temple plot of ground,or whether it was this side of it a little, but he lived down there near it, if not on it.

32 Q-Since you have been in the city of Independence at this time, have you seen what is called the "temple block"? A-Yes sir.

33 Q-When did you see it before? A-Yes sir.

34 Q-I asked you when ~~sir~~ you had seen it before this time? How long ago, before this time has it been since you saw it? A-In 1850, I mean in 1885 I was here,and saw it.

35 Q-In 1885 you were here and saw it? A-Yes sir.

36 Q-When before that did you see it last? A-In 1833. That was the last time I was here before 1885.

37 Q-Now is this ~~pla~~-piece of ground,-this piece of ground that you have seen since you come here this time,known as the"temple lot" the same piece of ground upon which the church held meetings from 1831 up to 1833,when they held out door meetings?A-Well so far as I can see in regard to the direction and locality, it appears to be that. As far as I can judge from the locality it must

be the same ground,but of course I can not say postively that it is the same. Of course at that time,- that is the time you refer to in your question from I83I to [redacted] "33 this ground was in the woods and it is not cleared and that makes a great deal of difference, but the locality is the same so far as I can now say. It seems to me to be the same, the same direction and the same distance and all, and as far as I can say basing my opinion upon the best of my judgement it is the same.

38 Q-Dr. Rathbun you may state,if you know, whether the people or members of the church were living here about that time,-that is from I83I to I833? A-Yes sir.

39 Q-Well were they living here about that time? A-They left here in the month of November I833.

40 Q-What was the occasion of their leaving,if you know? A- They had to leave.

4I Q-Why had they to leave? A-They were driven out of the country.

42 Q-By whom were they driven out? A-By the citizens of Independence and the vicinity. They were driven out by the people round about here.

43 Q-You may state what you know Dr. Rathburn about this accurence? A-About what occurence?

44 Q-Their being driven out of the country? A-What gave rise to it?

45 Q-Yes sir, or the cause of their being driven out? A-Well as I understood it,-by Mr. Southern,-"just enter an objection there on the ground that it is irrelovant".

46 Q-Just answer the question,and pay no attention to his objections. He is merely making the formal objection, and you need pay no attention to it"? what was the cause, if you know, of these people being driven out?" A-Well the people here became dissatisfied and displeased with citizens here known as the Church of Jesus Christ of Latterday Saints,- that is the citizens that did not belong to the church or organization became dissatisfied with the citizens that did belong to it. The had some peculiar sentiments that were anti-slavery, while those here were pro-slavery, and then their religious sentiments were different from those of other people here, and that excited some friction. There was a difference between the religious and political sentiments of the class of citizens that belonged to the Church of Jesus Christ of Latterday Saints and the citizens that did not belong to that organization, and that difference eventually led to friction, and finnaly the citizens who objected to the people that belonged to the church became so dissatisfied that they rose up in what we called mobs, or in a riotous manner, and met together and held some meetings, and passed resolutions, and proceeded to such extremities, that finally they drove them out. They met finally and done a good deal of damage and mischief to the people.There was several instances of mob violence,and on one instance they stoned the peoples houses here,-

47 Q-What houses,- the houses of what people? A-The houses of the people that belonged to the Latterday Saints church. They stoned them at night after dark,- I know that for amongst the others that were stoned was the house of my father, and they did that although at the time my father was away with some of the others in council I know not where, but our house was stoned and the door was broken open,and one stone as large as my double fist struck my mother, and she screamed murder, and then they run away at her screaming, and we could hear the houses being stoned all over the village

and the next morning very early, before sunrise I was up, and went through the village, and I found Mr.Phillip's house torn down, and the printing office was in an upper room of I think it was a brick house, and there was a stairway on the outside that went up to the printing office, and the printing press was broken,the type and all the furniture of the office were thrown down into what we might call a jamb piled together, and the printing press broke, and the l little boys came around and carried off the type and other things as they saw proper, and Mr. Gilberts store was broken into, and his goods taken out on to the street, and the bolts of factory and calicoes and cloth and so forth were unrolled,-It had the appearance of having been taken by the end and running off with ~~the-e~~ it until they would unwind them, and the streets were all over covered almost,- literally almost covered with those pieces of cloth that were unrolled in that manner, and other goods scattered around. My fathers shop was broken into and his tools thrown out on the street. And the vice screwed up until they had screwed the thread off it,and by some means, probably with a hammer, they had broken the horn off the anvil, and had cut the bellows all to pieces. That was the condition of things the morning after this violent demonstration or out-break. Things were in a state of great confusion for every one was greatly excited at the time, but things run along for a couple of days,and then they caught some of the elders of the church here,and among them my father, and brought them up here to the square to tar and feather them, and my father made his escape, but he w was the only one that did escape,and the others were tarred and feathered. I know that for I stood out a short distance away, ~~and saw~~ could see it done. If my memory serves me right, there was three tarred and feathered.-there was Bishop Partridge,-Edward Partridge, and then there was a man after him,-I think his name was Allen,-the other names I do not remember,and I am not certain this man's name was Allen but I think his name was Allen, and he was the man that was tarred and feathered after Bishop Partridge. I remember very particularly in regard to Bishop Partridge and the manner in which he went away,-the solemn manner in which he walked off and went home.Well finally the women and the household goods of the Saints here in the village were taken to the temple lot or plot and piled up there on the temple plot in the woods and we were there, I think it was three days,- I would not be positive, but I think it was about three days we were there in the woods, And they were yelling and hollering and swearing and shooting around there day and night. ~~You~~ We could not go to sleep at night until we sunk down from exaustion,-at last that was my case, and our predicament was a terrible one in that respect at any rate,- It was as bad as bad could be from almost any point of view. I could not go to sleep until completely exausted. and that was the case of my mother and of many others,- I may say all of them that were there, until the time came when we were to move and cross the river. we crossed the river down here about ~~3~~ three miles or such a matter,and I shall never forget how much releived we felt after we crossed the river, and got over on the other side. Now these are about the out lines of the particulars regarding the expulsion of the Saints from here as well as I remember them.

48 Q-You left Independence and crossed the river ~~with~~ through fear ~~and~~ of violence then? A-Yes sir.

49 Q-You say you crossed the river to the other side through fear of violence,- of receiving violence if you remained? A-Yes sir and to save our lives, and I might say that after we had crossed over a while the river froze up, and they sent out a proclamation a printed proclamation, and we got one with the rest from Independence from the merchants, stating that if we wanted to trade with them that we were to pass over and repass unarmed,or un-mounted and under this proclamation my father and I came over here to Independence, and father done some trading in the store where Mr. Gilbert had his goods but at that time it was in the possession of some other gentlemen.

50 Q-What was this man's name that was in the store there at that time? A-I don't remember his name. He was selling goods there in the store that Mr. Gilbert had before that but I don't remember his name at this time. Well as I said father went into the store and I with him and commenced buying some goods there. And pretty soon there was about a dozen men came and some of them accosted him very abruptly, swearing at him and threatning, and the clerk then told him to come and get his salt weighed out, for the salt was in the back room,and then the merchant him self stepped up to the crowd and told them he wished they would not disturb his house, and they said they would not disturb the house, but they would attend; this they said with an oath,-that they would attend to the damned Mormons,-that was what they said,- after he got through and got out of the place. Well I was frightened and I started out of the door and I saw seventeen whips from the woods,- that had been cut in the woods,- Ishould think about eight feet long or there abouts,- some longer and some shorter.

51 Q-How many of them did you say there was?A-There was seventeen of them piled up there, and I supposed they were for the purpose of giving father a thrashing, and I don't know whether they calculated to take me in or not, for I was young, but but whatever their calculations or intentions were I did not give them an opportunity to put them into effect for I made for the river,and after I got started along a piece I see my father ahead of me, and then in a double quick step I overtook him, and we crossed the river, and about the time we were three-fourths or say two thirds of the way across the they came to the bank on the other side, and we supposed they shot at us, for they shot anyhow, but we were at too great a distance somehow or other for the range of their guns in that day, and they didn't hit us. They did not hit us I said anyhow,and that was violence that I consider was of an extreme character.

52 Q-Where did you go when you got on the other side of the river? A-Well my father rented a house not far from the river,-Maybe two or three miles from the river, -He rented that house for a while,- but a short time,-and then he went into Liberty,and rented a shop there, and set up his business there, but he worked a while before he set up his business independently, for a man by the name of Hopewell.

53 Q-Were all the members of the church driven from this side of the river, so far as you know? A- So far as I know they were all driven away.

By Mr. Southern,- "Enter an objection to all of the questions asked since the question I last objected to on the ground of irrelevancy. By Mr. Kelley,-

54 Q- What county were you in when you crossed the river? A- We were in Clay County.

55 Q-You were in Clay County? A-Yes.sir.
56 Q-When did you go to far West,if you went there at any time?
A-When did I go to far West?
57 Q-Yes sir? A-Well we staid there in Liberty a short time, and then Mr. Arthur I believe his name was, engaged my father,- he was a prominent citizen there, and he engaged him to do some work for his mill,- the iron work in his mill, and Mr. Durfy to do the wood work and we staid there about a year or such a matter,-
~~58 Q-Staid where? A-At Liberty,- we staid there about a year or such~~
58 Q- Staid where? A- At Liberty,-we staid there about a year or such a matter after we crossed over the river,and then some of the citizens got uneasy about our being there, or seemed to be, and there was an agreement made between some of the leaders of the Latterday Saints and General Doniphan, General Atchison, Colonel Wallace and Colonel Thornton, and some others whose names I cannot remember, but these I have mentioned I was personally acquainted with.Well the ~~agreement~~ arrangement that was made, was to the effect that the Latterday Saints should go into a new country,- into Caldwell County and they should not be disturbed, and so they went over there. My father was called to Kirtland Ohio, at the time of the dedication of the temple there, and I hired out with a man by the name of Newberry, and with him I was one of the first to go to Caldwell County to make a location in sight of Far West, or near Far West.
59 Q-What did the people who were driven across the river from Independence,- where did they generally go from Clay County?
A-Those that were driven across?
60 Q-Yes sir? A- Now let me see what you want,- do you want to know where they went after they crossed the river?
6I Q-No sir,- my question is where did the people go that were driven from Independence across the river into Clay County,- where d did they go to from Clay County? A- Well they went into Caldwell County,and they built up a city there called Far West, and there was another location at what is called Hahn's Mill.
62 Q- Give as nearly as you can the number that went ~~from Caldwell~~ Clay County into Caldwell County? A-Well I could not state the number precisely, but there was I reckon,- they were generally reckoned to be about twelve hundred.
63 Q-What was the number that were driven from Independence here,as nearly as you can get at it? A-Well about the same number,-that is the number I refered to that went into Caldwell County, But afterwards there was a great many others that came into Caldwell County from the East.
64 Q-There was about twelve hundred that went across the river then?
A-Yes sir, I think about that number.
65 Q- Did you know a man by the name of Oliver Cowdery at Far West?
A-Yes sir.
66 Q-Was it the same Oliver Cowdery who formally lived here?
A-Yes sir.
67 Q-Did you know him also while lived here in Independence?
A-Yes sir.
68 Q-How long had you known him before he went into Caldwell County?
A-Well I had known him for,-well I had just simply seen him once or twice before my father moved to this country in I86I,-
69 Q-You don't mean '6I do you? A- I say before,- but I think it was in I860 that I saw him in Ohio,- I think it was in'60, but we came here in the summer of I86I, and it might possibly ~~have been~~ ~~nearly~~ in the year ~~before~~ I86I that I saw him before I came here.

70 Q-You say"I860",but you mean "I830",do you not? A-Yes sir. That was a slip of the tongue, for when I said "I860", I meant "I830 all the time. Understand me,all the time I mean I830and'3I.

71 Q-So then you say that the first you saw him was in I830orI83I? A-That was a mistake of mine for I did not mean to say I860 at all. I meant to say 1830 and I83I.

72 Q-You refer to Oliver Cowdery in these answers? A-Yes sir.

73 Q-Did he have any family at the time you knew him? A-Not when he first came here I think. I think he was married here,and at Far West he had some family.

74 Q-Were you aquainted with his family,-his wife and what children he had? A-Well how many children he had I couldn't say, but for I don't remember but three.

75 Q-What three children do you remember? A- John,Joseph Smith,and Jane.

76 Q-What year was it when you saw Oliver Cowdery in Far West? A-What time did I see him there?

77 Yes sir,inFar West ,or in Caldwell County?A-Well I see him off and on there from'30,- I think about the last of '35 anyhow, and during'36, '37 and'38 he was there.

78 Q-Well that was the time you saw him in Caldwell County? A- Yes sir along at various times off and on during these years I saw him there.

~~79 Q-His family, were they there with him in '38, were they there with him at that time? A-I think they were. That is my recollection that they were there with him at that time.~~

79 Q His family, were they there with him in '38, were they there with him at that time? A-I think they were. That is my recollection that they were there with him at that time.

80 Q-How long did the people remain there at Far Westand it that country,- Caldwell County? A- Well they remained from the time they went in there. I am not sure but that they began to go in there at the close of '34,- anyhow in'35 they began to go into Caldwell County. They began to settle in there at that time anyhow, and from that time they began to settle in there, they remained in there until the fall of '38.

81 Q-What was the occasion of there leaving Caldwell County? A- Well there were drove out from there also. They were driven out out of Caldwell County, as they were driven out of Jackson County.

82 Q-How,-That is in what manner were the driven out? Was it through any orders of the Govenor of Missouri? A- Yes sir.

83 Q-What was the occasion of it, if you know? A-Well there were some instances that occured along, You know,that gave rise to trouble.I recollect one very distinct incident that created quite a distinct impression on my mind,- I may say a very distinct,-impression on my mind,- an impression which I have never forgotten, and that was the election that was held after they got the county organized there. They came to elect an representative to the state legislature, and there were two parties that had nominees in the field,- one was the Whig party, and the other was the Democratic party, and I saw both these gentlemen that were nominated for the office, and heard them speak at Far West, and the gentleman on the Whig ticket was quite a talker, and the other one on the Democratic ticket was not so much of a talker, but was a candid citizen living at Kingston. They wanted to know of the gentleman that was running on the Whig party ticket, if he was elected, what he would do for the Latterday Saints,-if he would do any thing in the legislature to secure their rights to their lands, especially in the County of Jackson, and he was disposed to make any promises of any kind that he thought would bring votes, and the other man

I did not see him there after '38 I saw him there in '39 & am very much mistaken.

he was ready and willing to make the promise that if he was elected and any measure came up in the legislature in which they were interested he would use his influence in favor of that side of the measure that they would be personally or collectively interested in, and he futhermore promised, that he would introduce a measure or bill for the security of their rights,or rather the restitution of their rights, and this became known among the Latterday Saints, and they all took to this man when they came to vote, without regard to their previous political affiliations or associations or sentiments. That did not play any part and they all voted for this man,- for this one man,- I have forgotten his name, but he lived at Kingston, and he was a Democrat, and they elected him, and the other man was of course left quite in the shade, for the country was filled up with Latterday Saints,and the way they went was the way the county went. well from that moment there was never any let up on the persecution to which the Latter Day Saints were subjected, for it some how or other excited a spirit of total unrest and it did not subside until they were driven out of the county and country, or state I should say. There were several incidents that occured later on, but that was the one that first caused trouble. Now I do not remember the name sof these men who were candidates for the legislature at that time, but I remember right well how they looked. They gentleman that ran on the Whig party ticket was a tall slim man,and he was a very talkitive fellow, and I don't know but what he was a lawyer,- I rather think he was ,- and the other was a rather short heavy set fellow, but he seemed to be a little more frank and candid in expressing his ideas than t the other fellow was, and did not promise so much.

84 Q-Well now what was done towards making the people leave Far West, and Caldwell county A-Well one thing that caused trouble,- I might say the primary or immediate cause ~~that~~ of the troble that finally led to their expulsion was this.There was quite a number of people encamped there on Crooked River, and they were foraging off the latter Day Saints there. They were taking sheep,hogs,or swine, chicken and bees,- for we had a good many bees in those days, and they took our bees and were subsisting on us, and there is where I blame the latter Day Saints for their action. They raised a party,-

85 Q-Who did? A-The Latter Day Saints raised a party at Far West, and sent them out, under the head of Mr.Patton,Ibelieve his name was if I recollect right,and they went out in the night and surprised them,-that is surprised these people where they were camped, and they rather demoralized them for they absconded and left their camps, and whatever they had taken from the Latter Day Saints that could be found there in their camps and identified was taken back. The Latter Day Saints took what they knew belonged to them,- cattle and swine and sheep, and one thing and another,- they took it back again. Well they sent notice ~~to the~~ at once to the govener in regard to this, claiming that the Latter Day Saints had broken in upon them and shot at them, and the govener called out some six-thousand men, and came on to Far West with them. I think it was about six-thousand men that were called out if my serves me right, and they came onto Far West and when he came there he ordered them to surrender, and Joseph Smith and Sidney Rigdon surrendered, and their arms were taken,- for they hadn't only the commonest arms,- rifles and shot guns as a defence as common

citizens would have. That was all they had in the way of arms and when the demand was made that they surrender they did surrender and delivered up their arms. Well this force that came with the govener took their arms they took their prisoners, and held a court martial over Joseph Smith and Sidney Rigdon, and sentenced them to be shot the next morning at ~~f~~ four o'clock, and Govener Boggs,- for he was the Govener of Missouri at the time,- he issued a proclamation of extermination of the latter Day Saints, men, women and children, from the state, and General Atchison raised a mutiny to this, or what we called a "mutiny", and called out his men, and stated he was no butcher, and took his men home; but General Doniphan remained with the army that had come there, with his men, and when the heard the court martial sentence of these men to be shot, he refused to sign their decision, and told them that he and his men were not murderers of persons that were commiting but only defending themselves from unlawful violence, and he said they were entitled to suit in in the civil courts under the civil law, and if they had commited any crime to be punished under the laws of the state. Govener Boggs would not hear to that, and it run on through the day until General General Doniphan got his men a little excited, and he was one of these kind of men that when he got a little excited over any thing he was very liberal in the expression of his ideas, and so he told Govener Boggs plainly that he and his men were not murderers, but that they were soldiers, and unless they released these men forth-with and gave them a trial in Circuit Court, the next morning at four o'clock they would find out that he and his men were soldiers,- I believe that is the way he stated it to me.

86 Q-Do you know this of your own knowledge? A- I am stating it as I had it from his own lips,- as I had it myself from the mouth of General Doniphan in I885 at Richmond.

87 Q-In I835? A-No sir,-In I885.

88 Q-Well never mind that,that is not evidence,-just state what occured there in Caldwell County at that time to your knowledge,- what you know occured there, and nothing else, for any thing ese that you heard or that General Doniphan told you would be hear-say and not proper evidence? A-Well I am stating it as I know it to be for I was there at the time and saw most of it.

89 Q-Well do not state anything that was said to you after you left the county the first time? A- Well finally the Govener gave them three months to get away in, and on those conditions they agreed to go,and went,Now as regards these,- what Govener Boggs done at the time, that is the fact, for I was at the scene of operations and witnessed these things myself, ~~and which I~~ and afterwards I had the statement from the lips of General Doniphan himself, and which harmonized with the scenes I witnessed myself, and which I knew to be true for I heard them at the time.

90 Q-Were you in Caldwell County at some point outside of Far West at any time when there was a row between the two parties?

By Mr Southern,-"I object to this question as well as all other questions that precede it, that have not been formally objected to, and which have been asked this witness, on the ground that they are irrelevant".

A-I do not remember of having been at the election outside of the city of Far West, where any row occured particularly. I know what you refer to I think, but I was not there. I heard of it, but I was not there.

91 Q-Where did the people go from Far West? A-They went to Illinois.
92 Q-To what point in Illinois did they go? A-To a place that was afterwards called Nauvoo.
93 Q-That is all.You may cross-examine. No wait a moment,-there is another question I will ask the witness? Q-Were you ever at Hahn's Mill in Caldwell County? A-Yes sir.
94 Q-When was that? A-Well that was in '65.
95 Q-'35 you mean? A-I was there in 1835. Don't misunderstand me,- whenever I say '65,- I mean '35 every time. It was in '35 when I saw these things.There is some incidents in my life that impress me with that date,-'65,- and I cannot hardly help refering to it on every occasion and I cannot get it out of my mind, but I refer to '35. In the latter part of '35 and in '36, '37 and '38 these things occured,
96 Q-Now you say you were there at Hahn's Mill at one time? A-Yes sir, many times
97 Q-Were you there at the time of the massacre? A-Yes sir.
98 Q-You may state how that occured, if you know? A-Well under the proclamation of the Govener to exterminate the Mormons, Nehemiah Comstock, a military captain of the militia with whom I was aquainted, raised about two-hundred and fifty men, and came down here to Hahn's Mill, and on his way there he stopped at my uncle's house, and they went in there and wanted their arms, and there was nobody there but women,- my sister and her,-that was after my wife were there , and her sister and her mother. Well they stopped there and wanted their arms, their guns I believe they demanded, and a gentleman by the name of William Mann,- he always went by the name of Bill Mann. ~~He~~ a large man that weighed about three-hundred pounds I should think, he saw a gun and reached for it, and got hold of it and the woman grabbed it too, and the old lady,- her that was my mother-in-law afterwards, took a butcher knife,and told him that if he did not let go of that ~~knife~~ gun she would cut his hands off, and wouldn't let go so she struck down and cut one of his fingers off, and he hollered "murder". Nehemiah Comstock came in,and he saw no one but Bill Mann and these women tussling together, and so he went out, and they wanted to know what was the matter,and he said nothing was the matter, but there was some women in there that were cutting up old Bill Mann to make a pot of soap out of him, and so Bill had to leave the gun there and they went along and left the women in the possession of the gun. They did not take their arms, but went on down to the Mill, ~~b~~ where we all were, and when they came up the first thing we heard, was "fire", and they did fire, and some screamed they were killed, and they kept on firing, and one Evans, I think his name was Evans, a Latter Day Saint, and an elder ran out and held up the white flag and hollered to stop shooting that we surrendered, but they kept on shooting away,and he found he was in danger of his life so he ran along with others to get away, and while they were running they shot down some of them who were attempting to escape, and so we all run into an old blacksmith shop that was there made of logs not notched down closely,but with cracks ~~big enough~~ between the logs big enough for a cat to crawl through, and they kept on shotting and shot them down in there.My uncle saw that they were going to kill them all in there,so he ran out and ran down below the mill-dam and took across the creek and they shot after him , and a man by the name of Kelley followed him.

and he got over the fence on the other side, and went up Shoal Creek until he got out of the way. Well after the shooting was over and these militias that did it had gone away the ones that escaped came back and took care as best they could of the wounded and the dead. At the commencement of this affray I was afflicted myself for I had got hurt in my right limb, but it had got about well so that I was about but I couldn't run very well, and so my father grabbed me on his back and carried me out into the woods, and laid me down and went off and left me, and all at once every thing got dark, and I knew nothing more until my sisters,- I came too, and found my sisters were rubbing me with camphorated spirits and I found that my limb had been shot through, and the blood was running out from both sides of the wound. Well after they got through taking care of the others my father and uncle came with a litter they had made and put me on to it,and carried me into the house, and from this wound I am more particularly crippled to this day, for it rendered me a cripple for life.

99 Q-Was there a regular fight there? A-No sir,there was no fight for there was no resistance made at all.

100 Q-No resistance made upon whose part? A-There was no resistance whatever made upon the part of the Latter Day Saints.

101 Q-How many were killed? A- Nine-teen were killed.history does not state but eighteen as having been killed, but I know there was nine-teen according to the names of ~~those~~ the ones that were killed I know that for I was personally aquainted with every one of them and I carried the names in my mind for great many years,but they have gone from me now, but my clear recollection is that there was nine-teen that were killed there.

102 Q-When did that occur Dr. Rathbun? A-It occured in the fall of 1838.

103 Q-Was that the time of the trouble around Far West? A-Yes sir, that was the time.

104 Q-Dr. Rathbun I will get you to state to what church you belong now? A-Ibelieve it is known as the Re-organized Church of Jesus Christ of Latter Day Saints.

105 Q-How long have you been a member of the ~~church of~~ Re-organized church of Jesus Christ of Latter Day Saints? A-Since the 26th day of October 1884.

106 Q-I will get you to look at "Exhibit""E" page one hundred and fifty-four, paragraph one, and read it to the reporter? A-Which one?

107 Q-Paragraph one,section twenty seven in Exhibit "E"? [redacted]? A- The first paragraph?

108 Q-Yes sir? A-"Hearken O, ye Elders of my church, saith the Lord your God, who have assembled yourselves together, according to my commandments in this land which is the land of Missouri, which is the land which I have appointed and consecrated for the gathering of the Saints; wherefore, this is the land of promise, and the place for the city of Zion. And thus saith the Lord your God,if you will receive wisdom, here is wisdom,- Behold the place which is now called Independence, is the center place, and the spot for the temple is lying west-ward upon a lot which is now not very far from the fourt house; wherefore it is wisdom that ~~that~~ the land should be purchased by the Saints; and also every tract lying west-ward; even unto the line running between Jew and Gentile. And also every tract bordering by the prairies, in-asmuch as my deciples are enabled to buy lands.Behold this is wisdom,that they may obtain it for an everlasting inheritance". It is a little dark here and I can not read as well as I can at other times, but I

carry along with me another pair of spectacles for a time like this.

109 Q-Doctor I will ask you what lot is refered to in that revelation? A-I under stand it to be the temple lot downhere.

110 Q-The same block or lot that is in controversy in this suit? A-Yes sir.

111 Q-You may examine the witness Mr. Southern?
Cross examination by Mr. Southern,-

112 Q-Doctor you have just read from this book,-the book of Doctrine Covenants,and testified concerning what you have read have you not? A-What is that?

113 Q-You have just read from this book? A-Yes sir,Ibelieve that is the book.

114 Q-And testified concerning what you have read? A-Yes sir.

115 Q-Have you ever seen that book before? A-Yes sir.

116 Q-You have seen this book before? A-Yes sir. Now understand me I do not say that I have seen that identical book, but I have seen many just like it before to-day,but I may not have seen that volume.

117 Q-What book is it? A-It is a book called the Doctrine and Covenants.

118 Q-Examine that book(~~witness~~(handing witness exhibitE) and state what it is? A- This is the book,-the book of Doctrine and Covenants.

119 Q-Look for the title page in that book Dr. Rathbun, and state what you find? A-(Witness examines the book).

120 Q-Do you find the title page? A-I don't find any title page here.

121 Q-You do not find any title page in it? A-NO sir.

122 Q-What do you find there? A-I find the preface here though,-

123 Q-But no title page? A-No sir there is no title page in it.

124 Q-Do you find a place where the title page should be? A-I do not s see where there has been any.

125 Q-Would you know the title page of that book if you wereE to see i it in another book of the same edition? A-Well in those books (refering to exhibit E) all the title pages are the same I suppose, for they are all of the same edition. Have you one there?

126 ~~Q-Would~~ My question is would you know the title page that ought to be there if you were to see it in another edition ~~if you were so~~ of the same book? A-Yes sir.

127 You would know it? A-Why I think I would. I don't know of any reason why I would not.

128 Q-Look at the book I now hand you,and see if that is the title page that belongs to that book? A-"Doctrine and Covenants of the Church of Latter Day Saints, carefully selected from the revelations of God,and compiled by Joseph Smith, Junior, Oliver Cowdery,Sidney Rigdon and Frederick G. Williams, presiding Elders of said church, Kirtland,Ohio,etc". This seems to be the title page that should be here,-
By Mr. Kelley,-

129 Q-Read the whole of the title page Doctor Rathbun? A-"Printed by F.G.Williams&Co, for the proprietors,1835". Why yes sir ~~it~~ this seems to be the title page that should be here.
By Mr. Southern,-

130 Q-Now is that which you have read there, and which the reporter has taken down as you read it,what ought to be the title page of exhibit "E",which you hold in your hand,- is that the title page that belongs to that book? A- This is.

I31 Q-well is it the title page that belongs to that book? A-I believe it is.It bears the same date,and commences the same way and I don't see any thing irrelevant to the regular title page.

I32 Q-What do you mean by saying it commences in the same way? A-I mean that by comparison I see the books both commence in the same way so far as they are entire, and I do not see any reason ~~why as to why~~as to why this should not be the proper title page for this book(Exhibit E) I believe that is the title page that is missing,-or I mean to say that this book if it had the title page would be exactly the same as the other one.Both books are just alike with the exception that one has the title page and the other has not,- that is all the difference I can see in them. The preface is the same,all but the title page. The title page is not in this book(Exhibit E) and it is in this one. I do not say that this book ever had a title page,- I don't say that,-

It is admitted that the title page as read by the witness and recorded above from the edition of 1835 of the book of Doctrine and Covenants is the title page that properly belongs to exhibit E, which has been destroyed in some manner, and which is now missing.

I33 Q-Now you spoke of the name of the church? A-Yes sir.

I34 Q-At the time you were in Jackson County, Missouri? A-Yes sir.

I35 Q-And I don't whether I understood you accurately in stating the name or not,therefore I will ask you to state what the name of the church was at that time? A-At the time it was in Jackson County here?

I36 Q-Yes sir?A-The church of Jesus Christ of Latter day Saints.

I37 Q-you state that was the name of the church at that time? A-Yes sir

I38 Q-What time did you say you were in Jackson County? A-From '31 to '33.

I39 Q-This book was published in 1835? A-Yes sir.

I40 Q-Is that the name of the church as set forth in this title page that you have just read? A-The"Jesus Christ" is left out here. It simply says the"Church of Latter Day Saints" here. The words "Jesus Christ is left out of that title page.

I41 Q-Now will you look at the Exhibit"E" the book from which the title page has been torn,or missing or has dissapeared,- will you look at that book,-

By Mr. Kelley,- there is no claim by us that the words "Jesus Christ" was ever in here Colonel".

By Mr. Kelley,-

I42 Q-Look at the first page that book,- at the reading matter on it, and state what is the style of the reading matter therein contained,- read the style,-? On the first page?

~~I43 Q-Read the whole page? A-"Preface.~~

I43 Q-Yes sir? A-What is it I am to read?

I44 Q-Read the whole page? A-"Preface. To the members of the church of Latter Day Saints,- Dear Brethern;-We deem it to be unnecessary to entertain you with a lengthly preface to the following volume, but merely to say that it contains in short, the leading items of the religion which we have professed to believe.

The first part of the book will be found to contain a series of lectures as delivered before a Theological class in this place and in consequence of their embracing the important doctrine of salvation, we have a ranged them in the following work.

The second part contains items or principles for the regulation of the church, as taken from the revelations which have been given since this organization, as well as from former ones.

There may be an aversion in the minds of some against receiving anything purporting to be articles of religious faith and in consequence of there being now extant; and if men believe the system, and profess that it was given by an inspiration, certainly the more intelligily they can present it the better. It does not make a principle untrue to print it. Neither does it make it true not to print it. The church viewing t this subject to be of importance, appointed through their servants and delagates the High Council your servants to select and compile this work. Several persons might be adduced in favor that the church was evil spoken of in many places, its faith and belief misrepresented and the way of truth thus perverted. By some it was represented as disbelieving the bible, by others as being and enemy to all good order and uprightness, and by others as being injurious to the peace of all goverments, civil and political.
We have therefore, endeavored to present, though in few words our belief, and when we say this, humbly trust, the faith and principles of this society as a body.
We do not present this little volume with any other expectations, than that we are to be called to answer for every principle advanced in that day when the secrets, of all hearts, will be revealed, and the reward of every mans labor be given him. With sentimentsof esteem and sincere respect, we subscribe ourselves your brethern to the bonds of the gospel of our Lord Jesus Christ.
Joseph Smith,Jr; Oliver Cowdery; Sidney Rigdon; F.G.Williams
Kirtland,Ohio. February 17th,1835."

145 Q-Who is that preface you have just read addressed to? A-"To the members of the Church of Latter Day Saints".

146 Q-The words "Jesus Christ" are not in there? A-No sir,that is not in there.

147 Q- Are you familiar with the book of Doctrine and Covenants of the 1835 edition? A-I am not so familiar with.that as I am with the later edition. Formerly I knew more about it,- I might say that I was pretty familiar with it, but you must remember that was a good while ago. I was familiar with it then but I can not state that I am as familiar with it as I now as I am with the later edition.

148 Q-Do you know about the time that you first saw the book? A-No sir I can not state when I first saw it. I couldn't say when I first saw that book.

149 Q-Did you ever see a book of any other name or authority in the church in those early days? A- Yes sir there was a book called the "book of commandments" I believe that was what it was called.

150 Q-Have you ever seen that book? A-Yes sir I have seen it but I can't recollect much about it at all.

151 Q-You have seen it you say? A-Yes sir, I have seen it, but I can not say very much about it, for I never owned one.

152 Q-Would you or would you not be able to identify one, if you were to see it? A-I could not say I would not under take to identify one at this time,although I have seen one or two, maybe three or such a matter.

153 Q-Do you know what the name of the church is specified to be in that book? A- In what book?

154 Q-In the book of commandments? A-Well I think in that it was called the Church of Christ if I am not mistaken.

155 Q- Do you know whether or not,- whether or not that was an earlier book, First

I will ask you if you know whether or not that book of commandments was a book for the guidance of the Church? A-Well the used it,but they seemed to hold it temporarily for the time ~~so-to-spe~~ being, so to speak.

I56 Q-Was that after or prior to the book of Doctrine and Covenants was published in the year I835? A-Well I have it in my mind that it was prior to the book of poctrine and Covenants.

I57 Q-Do you say it was before the publication of the book of Doctrine and Covenants? A-I say I have in mind that it was before,- yes sir I am pretty positive it was before.

I58 Q-Dr. I believe you stated that the name of the church in I83I when you were at Independence was the "Church of Christ" of Latter Day Saints. A-Yes sir.

I59 Q-What is that? A-I stated that it was the "Church" of ~~Christ~~ Jesus Christ of Latter Day Saints. Now that is my recollection of the name of the church at that time, but it is barely possible that the name was settled on at a later date than that, for the first ~~si~~ onset of the church it was simply called "the Church of Christ", That was the name it was known by among the Saints, and then it was called the Church of Latter Day Saints, and finally the name was changed or settled on, as being "the Church of Jesus Christ of Latter Day Saints."

I60 Q-Doctor do you know when that latter name you have mentioned was settled on? A- I don't know just when it was settled on,but I think it was on a later date than I83I. I think it was a later date than that. I am quite sure it was.

I6I Q-Was it not as late as,-? A-Let me complete my ~~sente~~ answer please.

I62 Q-I beg you pardon I thought you had finished? A-But there were many of the leading Elders of the church calling themselves the "Church of Jesus Christ of Latter Day Saints," and the "Church of Christ" and the "Church of Christ of Latter Day Saints", and in view of a discrepancy among them so to ~~state~~ speak, regarding the name of the church, and to avoid confusion and error, they finally at a later date, settled on what the name should be called in full.

I63 Q-Can you mention the time that was done,-wasn't it about I838, or as late as that? A-Oh no sir it was,- it might have been in '32 or '3, or some wheres along there. It might as a matter of fact have been as late as '34, but I don't think it was any later than I834, anyhow.

I64 Q-Then the fact is Doctor that when you were here in '30 and '3I. for I believe you said you was here in '30 and '3I? A-Yes sir I so stated.

I65 Q-You were probably mistaken as to the name of the church? A-I am not mistaken as to the name they called themselves. The leading Elders of the church,- such as the Bishop and Oliver Cowdery, and some of those,- and there was some,- well the Whitmers for instance they were disposed to call themselves the "Church of Christ" and there were others that called themselves the "Church of Latter Day Saints", ~~and to tell you~~ or the "Church of the Latter Day Saints," and to tell you the fact the matter of this confusion amongst the saints as to the name or title of the church was made the subject of a special prayer by Joseph Smith himself, and he got what he said was from the Lord, a revelation, that the name should be "The Church of ~~Christ~~ Jesus Christ of Latter Day Saints", and that finally settled it, and established the name universally among the saints, whereas it had not so been universally known among the saints before that.

I66 d-Can you give the date of that revelation by Joseph Smith to which you refer? A-No sir.

I67 Q-You can not give the date of it? A-No sir. I cannot give the date of it.

I68 Q-Now Doctor do you know of any branhh of the Mormons existing at the present day or time, of the same name that they were called when they first came to Missouri in I830? A-Yes sir.

I69 Q-What is it? A- Iknow a Church that is called the "Church of Jesus Christ of Latter Day Saints",

I70 Q-You know a branch of that name? A-Yes sir.

I7I Q-Do you know of any branch that call themselves the "Church of Christ",just as they called themselves in I830 when they first came to Missouri? A-I haven't known, and do not know of any regular established church of that name. If there is such a church so calling itself I have not been in possession of that knowledge. I have known of some members ,- some individuals,- I will say,- at different places calling themselves by that name,- or calling themselves the "Church of Jesus Christ", but I have not known of a regular established church calling themselves by the name of "Church of Christ", with the except ion that I have heard here more recently that a church or organization that was formerly known as the "Campbellites", now call themselves the "Church of Christ".

I72 Q-Then you are not now aware of any sect of the Mormons calling themselves the "Church of Christ"is that what you wish to be understood as saying? A-I will tell you what I have heard about that. I have understood that there were a few in this vicinity, that was calling themselves the "Church of Christ", but I supposed it was just a transient matter that did not amount to any thing. I did not hear that they had any organization or body that entitled them to a name. There are several places where you find people who call themselves the "Church of Christ," and their doctrines will differ widely. I know some people up in my state of Michigan that call themselves the "Church of Christ," yet they are not a regular established and organized church.

I73 Q-These parties or members you refer to here in this vicinity as you referred to them, ~~they~~ call themselves the "Church of Christ", Do they not? A-Yes sir,- so I understand.

I74 Q-And do they not profess to believe just what the"Church of Christ" belived in I83I? A-What is that?

I75 Q-I asked you if these people in this vicinity calling themselves the "Church of Christ" if they did not profess to believe what the "Church of Christ" taught in I83I at the time you were here? A-I am not aquainted with their faith at all, and I am not familiar with it, nor have I ever heard one of them expounding, preaching or talking, and I have never had any conversation with any of them. Now it does seem to me that in I885 when I was here I saw one of them and had some talk or conversation with him on the temple lot,but it was nothing to speak of. It was for but a few moments,-and it was a kind of friendly chat, and was nothing in relation to the church.

I76 Q-Doctor do you remember whether sice I830, '3I or'32, there has been any thing added to the doctrines of the church to which you at that time belonged? Anything added I mean that was not identical,- that was not the doctrine of the church at that time? A- I do not know of any additional doctrines that have been added to the church from the first day to the present. Not in the "Church of ~~Christ~~Jesus Christ"to which I formerly belonged, and the church to

which I now belong.

I77 Q-There has been nothing added? A-No sir,nothing,- there has been some elaboration,- but nothing added,- the doctrines are identical.

I78 Q-Do you know whether there has been any thing added to that book of Doctrine and Covenants published in I835,since the time of its publication, by revelation? A-Yes sir.

I79 Q-What,~~there has been~~ A-There has been additional revelations given since the first,- the church believes in the doctrine of continued revelation and direction from God.

I80 Q-Are they included in the books now used by the "Reorganized Church of Jesus Christ of Latter Day Saints"? A-Yes sir.

I8I Q-Well you know that the name is not now the same as it was in I830 and'3I do you not? A-It is the same.

I82 Q-Identically the same? A-It is, or has added to it, prefixed to it, the qualifying word "re-organized". I know it has the word "re-organized in it.

I83 Q-You know I suppose, do you not,that that is an applicable prefix? A-An"applicable prefix"?

I84 Q-Yes sir? A-Yes sir.

I85 Q-Applicable to the church? A-Yes sir, and if you will allow me to state I will say that I believe it would have been applicable,- an applicable prefix when it was first organized,in I830.

I86 Q-But how was the name obtained in I830 if you know? A-Well in I830 they called it then the "Church of Christ," and from that time on for a few years it was so called, but I think it was about '33 or '34 that the matter of the name of the church was made the subject of special prayer by Joseph Smith, and a revelation was received changing or fixing the name "The Church of Jesus Christ of Latter Day Saints". now prior to this time that name had been used by some of the Saints in referring to the title of the church, and the matter of the name of the church was a matter in confusion up to that time.

I87 Q-I beleive you stated you could not refer to that revelation fixing the name of the church? A-Yes sir.

I88 Q-The name was settled upon finally in this manner? A-Yes sir.

I89 Q-You do not under take to give the date when it was so settled? A-No sir.

I90 Q-Now to go back to the question I ask you a while ago, and which you did not answer, with reference to the name of the church in I830,-my question is how did that get the name that they had then? A-I do not understand that it was given authoritatively to the church through the medium of a revelation at all, and I do not think the name was authoritatively fixed or settled until it was settled with the name of the "Church of Jesus Christ of Latter Day Saints".

I91 Q-And you stated you would not under take to give the date when it was so settled? A-No sir,I couldn't do that, but it is in the late book of Doctrine of Covenants when it was given. If I am not mistaken it is in there.

I92 Q-Are you familiar with the ~~th~~ doctrine of Baptism for the dead? A-I know of that doctrine.

I93 Q-Was that the doctrine of the "Church of Christ" when you were here at Independence, Missouri? In I83I, '32 and '33? A-They believed in it just as it is stated in the New Testament.

I94 Q-Did you ever hear it preached,or taught, or spoken of in this

time? A-What time.

I95 Q-Do you ever hear it taught,preached or spoken of in those days,- that is during I83I, '32 and '33 while you were living here at Independence Missouri? A-Well they were not in the habit of preaching it publicly as a rule, or preaching on that subject, but it was a matter that was talked of among the members and Elders of the church, but was not the matter of public digcussion or teaching from the platform or pulpit.

I96 Q-Had there been a revelation establishing it as the doctrine of the church,or one of the doctrines of the church up to that time? A-I do not remember about there coming a revelation that established it as a doctrine of the church up to that time. I do not recollect as to that, but I am not sure, there was not one. I am not sure, but that there was one. I would not say there was or was not one that was given to establish it as a doctrine of the church as far as that is concerned.

I97 Q-you don't know whether as a matter of fact there was any revelation on this subject prior to I840 do you? A-Well I do not know that there was one before that.

I98 Q-Well just prior to I840 did you know of one? A-I do not remember I do not remember of one being given before that time,or even at that time.

I99 Q-How were the doctrines set forth in the book of Doctrine and Covenants obtained if you know? A-Well as a rule in the book of Doctrine and Covenants they came by revelation.

200 Q-Was there any specified head or authority through which they came? A-Yes sir.

20I Q-What? A-the president of the church.

202 Q- Who was that? A-Joseph Smith.

203 Q-Was he the president of the church ? A-Yes sir,at that time he was. He was the first president of the church.

204 Q-was there any head or authority through which they must necessarily come? A-Well through the first Presidency, which was Joseph Smith,- as a rule it was through Joseph Smith the President of the Church they came although they could come through the first Presidency of the church.

205 Q-I do not made know that I under stand that answer? A-I said as a rule they came through Joseph Smith who was the president of the church, but not necessarily for they could come through the first Presidency, but they had to come through these mediums.

206 Q-How do such doctrines come now to the "Re-organized church?" A-In the same manner,- through the Presidency of the church.

207 Q-Is it enough to have a revelation placed in the book of Doctrine and Covenants to show that it had come through the Presidency of the Reorganized church? A-It is not enough in the abstract.

208 Q-What else is required? A-In the Reorganized church?

209 Q-Yes sir? A-Neither was it primarily.

210 Q-What else is required in the Re-organized church? A-Well when a revelation is received by the president it must first be submitted to the first presidency, and if approved by the first Presidency unanimously, it is then presented to the quorom of twelve, and if excepted and adopted unanimously by them, it is then presented to the quorom of high priests, and then to the quorom of the bishops, and finally it is presented to all the quoroms and members of the church present at a general conference,and a final vote taken by the whole after it is decided on by one quorom after

another from the Presidency down to the whole body assembled together.

211 Q- Do you know whether there are any revelations in the book of Doctrine and Covenants that never took that course? A-No sir I do not know of any in the book of Doctrine and Covenants but what went through that course.

212 Q-Well do you know of any where? A-No sir.

213 Q-Where did you ever know of any any where that did not follow that course? A-I never knew of any revelations any where that came from Joseph Smith.

214 Q-~~You~~ I mean revelations that were not submitted to the quoroms? A-I understand.

215 Q-You do not know then I am to under-stand you as saying ,- you do not know of any revelations that are in the book of Doctrine and Covenants without pursuing that course? A-No sir I do not know of a revelation that came ~~from~~ through Joseph Smith as is found in the book of Doctrine and Coventants without it first passed all the quoroms and the body of people in the manner I have stated from the first Presidency down to the body assembled in a general conference. That course had to be pursued before they became the law of the church.

216 Q-Now you speak of these revelations being finally submitted to the general conference? A-Yes sir.

217 Q-Do you mean by that the general conference, or general assembly? A-The general assembly,general conference, or general council It makes no difference to me what you call it, but the church calls it the general conference.

218 Q-When did it get the name ~~of general conference?~~ of"general conference?" A-Oh well, they have always had the name of"conference",- a district conference or branch conference,- a district conference or a general conference,- they have alway been called conferences.

219 Q-Is there not a general assembly ~~was~~ provided for in the Re-organized church? A-There has not been one called,-there has never been one called to my knowledge, but the authority is there to call one at any time,just the same as formerly.

220 Q-The authority is there to call one you say? A-Yes sir.

221 Q-Is it not a fact that the re-organized church has authority given them in thier various books to do certain things, which they have never done,- that they never avail themselves of this authority? A-Authority is given there,-
Counsel for the plaintiff objects to the question asked the winess on the ground and for the reason that it is incompetent irrelevant and irmaterial and improper cross examination.

222 Q-Is it not a fact that they have authority there which they never use? A- In the re-organized church?

223 Q-Yes sir? A-I do not now think of any. If there is any I do not think of it,- any further than the calling of that assembly,- they have athority to call that assembly to gether but they have never used the authority,- although they have the authority to do so when it is necessary.

~~224~~

224 Q-Is there any thing of that nature in the re-organized church with ~~to the~~ reference to any other matter?
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A-What is that?
225 Q-Do you not call any to mind? A-How?
226 Q-You do not call any to mind? A-I dont under stand what you mean.
227 Q-I ask you if there was any other latent authority in the present book of Doctrine and Covenants? A-Now if you will please let me explain a little bit in regard to myself: I would be under an obligation to you, I have just passed through a very severe attack of what is commonly called the "la grippe", and I am just getting around after it. It has afflicted my hearing, and while I can hear the sound of your voice when you speak loud and quick, I hear all the sound but I don't get the articulation of the words. That is the difficulty that I am laboring under, and if I am a little hard or difficult in being made to under stand what you say, you must attribute it to the ture reason and not the design. I wish you would bear with me when I throw out this statement, that I don't get the articulation of the words you utter.
228 Q-Well sir I certainly do symp thize with you for I know how you feel, and I certainly thought you were doing very well for a man of your years, to say nothing of your recent sickness or physical condition. I thought you were doing very well indeed. Now Doctor, you spoke of the "temple plot" did you not? A-Yes sir.
229 Q-You called the "temple plot" did you not? A-Yes sir, that is what I called it, but some people called it the "temple lot" I believe.
230 Q-What do you mean by the word "plot"? A-What do I mean by that?
231 Q-Yes sir? A-Well I simply met that piece of ground down here that is called ,-well some times it is called the "temple plot", and sometimes the "temple lot" but usually I call it the "temple plot".
232 Q-In speaking of that with reference to the year 1830, '31 and '32, do you limit yourself to what is now termed "the temple lot", as it is designated in this litegation,- thatis do you limit yourself to that special ground when speaking of the "temple plot" in 1830, '31, '32 and '33? A- As meaning only this?
233 Q-Yes sir, did you speak of it as meaning only this? A-No sir.
234 Q-Did you not speak of it as meaning only this particular piece of land in controversy here? A- No sir, not as I understand it.
235 Q-Well what did you speak of it as meaning? A-When I speak of the "temple plot" I speak of it as meaning not only this piece of ground but a good deal more,- considerably more, inclusive.
236 Q-Well sir you have shown your self to be a man of good deal of accuracey of statement in this investagation, and I would therefore like to elict from you some thing like the number of acres which you have in mind in this designation,- in what you designate as the "temple plot as it was in the years I have referred to? A-Well now I have got two ideas in my mind.
237 Q-Well give us both of them pleas? A-I have one idea lying or lodged in my mind, that it was **fifty seventy ~~five~~** acres,
238 Q-Fifty seven or seventy five acres? A-Yes sir.
239 Q-That many acres? A-Yes sir, or thereabouts. I do not say that that was the number of acres, but that is the idea that is in my mind.
240 Q-Then it is a fact that when you speak of the "temple plot" you mean fifty seven or seventy five acres or there abouts? A-Yes sir that is the amount I think there was of it primarily,- that is in

the first, place,- originally,- there was that much according to the best of my recollection, but as I said I would not state potively that that was the amount,- that is simply the ideas I have in my mind. but I may be in error as to that

241 Q-Of which the property not in controversy here. forms a part? A-Yes sir, that is the way I wish to be understood.

242 Q-Now I believe you stated that on this "temple plot" as you term it there was trees? A-Yes sir.

243 Q-Will you state whether there was any prairie on it or bare spaces at that time? A-I cannot remember of there being any prairie on it. There may have been. but I do not recollect of any if there was. if there was any prairie on it it might have been at the extreme end of it to which I might not, perhaps, have went at any time. I know I was on it a good many times, and I could tell you some instantces in relation to being on it. which I remember.
If I give you an incident,-

244 Q-Well you were on it, and you do not recollect whether there was any prairie on it or not? A-No sir. I was on it a good many times, but I was always in the timber part of it, and if there was any of it that was prairie I do no know of it. I dont say that I was all over that lot or plot of ground at any time.

245 Q-Do you remember a ravine that run through it, or depression of any part of it,- that is a depression of the surface that was in any part of it? A- Yes sir, and I think there was a ravine that went through a portion of it. Yes sir I think that there was a ravine that went through a small portion of it some where, but I can not tell where , or any thing about that now.

246 Q-Do you remember whether there was a rock quarry on it, or not? A- I do not know as to thgt.

247 Q-You do remember though that there was timber at every point onit that you recognized as belonging to it? A- I do not wish to express myself in the fullness of your question. Your question is to broad in its scpoe, and I do not wish to express myself in these terms,-

248 Q-Then I would be glad if you would express yourself in your own language on that point? A- Well sir there was timber over this lot. It was what was called a timberlot but there was s small spaces on it that there was no timber, but taking it generally it was a timberlot. Now that is my recollection of it based upon the extent that I was on or over it. I do not know that I have been over the whole of the plot of ground but I think I have been over most of it, possibly all of it, and it was timbered where ever I have been over it in those days, to the best of my recollection.

249 Q-You do not say that you were over it all?.A-No sir, I do not say that I was to the extreme end or edge of it at any time, to know ~~whether~~ where its limits were. There might have been some places on it that there was no timber, but they were just small spaces, and the major part of it was covered with timber. I know there was a part of it I visited about every week of my life and on that part there was timber,- every week of my life I visited while I was here, and I remember the character of that part quite well, and that part of it was in the timber I know.

250 Q-Now will you state how you are able to locate that particular piece of prpoerty, as that property referred to in the revelation which you have read here? A-Well by the distance from the center of the village here. It was a village then, but it is now a

then, but it is now a city, It is about the right distance from the court house, or the center of city as well as I remember, and I used to travel down to it the time we resided here and I have been down to it several times since, and the distance corresponds with my recollection of the distance. The distances seems to me to be about the same so far as I can or could see, to the place where they used to worship on the lot.

251 Q-Is it not a fact Doctor in your experience, that as we get older the distances does not appear the same as they did when we were many years younger? A-Yes sir, sometimes that may be the case, but my recollection of is so distinct in regard to the distance from the court house down to the temple lot as being about the distance I have traveled and now it appears to me to be about the same that I dont think I could be mistaken about that.

252 Q-Are you sure the court house was here then? A-There was a court house plot here and some kind of a place where they held court, but I do not remember what kind of a place it was.

253 Q-Are you sure it was at this point? A-Yes sir, it was here in the center of the village.

254 Q-You think so? A-Yes sir, I think it was here in the center of the village.

255 Q-Can you state upon which side of the road running west from Independence the "temple lot" was located? A- I do not know. I do no think that when we first began to go there there was any road cleared to it, only as it was cut out. I myself in going down there hardly ever went by the road, for I used to go across the field,- there was a field that I use to cross, and go over in the woods, and go up to where they held the meetings; but in the process of time there was a road that they had cut down through there to the temple plot, and if my memory serves me right ~~it was on the left hand side of~~ the temple lot was on the left hand side of the road as we went from here down to the temple lot or plot.

256 Q-Do you know where the present building of the re-organized Church of Jesus Christ of Latter Day Saints is located? A-Yes sir I know where that is.

257 Q-Is that on any part of the temple lot? A-It is not now on what is called the temple lot, but it would not be a matter of surprise if it would prove to be on what was a part of the temple lot primarily,-that is on a part of what in those days was known as the temple plot. It is on ground that I think primarily the temple plot would embrace, yet it is possible that I may be mistaken in that surmise or impression. I think, how ever, that it is on what was primarily a part of the temple ground. I know that when I have been down that way, I have wondered in my own mind if that house was not built on what was primarily a part of the temple ground when I saw it. Now that has been a wonder in my mind ever sice I saw it,-

258 Q-Do you know whether or not the temple lot may not have extended north of that church, as indicated in the revelation of which you were speaking? A- Now as we go past the house from here down there,- past the front of the house, which way are we going. I knew of course once the direction, but a few years ago I got turned around ~~and~~ in longitude and latitude, and when I am in a place now where I am not familiar it is a little bit difficult for me to get the points of the compass. I am lost and do not know latitude and longitude, so will you tell me which way I am going when I am going on the road that runs along there between the church building?

259 Q-Well I suppose the gentlemen will not object to my saying you are going in a westerly course? A-Yes sir, that is right, ~~Now that~~ that I think it is possible and probable that the temple lot would have embraced land north of that, but I would not say positively as to that, for I do not attempt to describe its boundries, I do not attempt to do that, and would not attempt it either, for I do not know and never did know the exact boundries of the temple lot

260 Q-You said in your examination in chief that the witnesses were here at that time? A- What time is it that you refer to?

261 Q-In 1831, '32 and '33? A-Yes sir.

262 Q-And members of the church,-I presume you would say the "Church of Christ" at that time,- that is the same church of which you became a member? A-Yes sir.

263 Q-For both belonged to the same church? A-Yes sir.

264 Q-You joined the church at this point did you not? A-Yes sir, I was baptised by Oliver Cowdery down here in a little branch that was damned up to get water to baptise people in in 1831.

265 Q-What time in 1831 were you baptised? A-In November. Mr. Brackenbury has showed me the place where it occured since I have been here this time. Of course I do not know that that was the same place but I am under the ~~same~~ impression that it is,- at any rate I was baptised here in November ~~in~~ 1831.

266 Q-And the Whitmers, as you say, were here in this county at that time? A- Yes sir, there was quite a number of them. ~~I~~ I do not know or recollect all their names at this time, but there was quite a number of them, enough to make what was called "The Whitmer Settlement" out here for a few miles.

267 Q-They lived out here west beyond the temple lot did they not? Yes sir, out west some where,-I take it that it was out on the Blue they lived,- it was out near the Blue some where for we had to cross the Blue to get there, I remember that for I was there several times on foot when I was a lad.

268 Q-The Whitmers were members of the church at the time you were here? A-Yes sir.

269 Q-Can you state whether the Whitmers or any of them are members of the Re-organized Church, or ever have been? A-I do not know that they are. I do not know that they are or ever have been.

270 Q-That is you do not know that they ever have ~~been~~ ,-any of them,- belonged to the Re-organized church? A- No sir.

271 Q-Do you know to what church they belonged all along? A- Well I am not aware that they claimed that they belonged to any church any more than that they held to the faith,- as I under stood it the original faith is thier claim.

272 Q-The original faith of what? A-The Latter Day Saints.

273 Q-That is to say in after life they did not join any movement of the Re-organized church? A-No sir.

274 Q-That is what you mean? A-Yes sir, that is one thing I mean, and I mean also that they did not in a late period belong to the original church.

275 Q-Do you know when they left the original church, or any thing about that? A-Yes sir, I know some things about it. I know some things about it, and somethings I do not.

276 Q- Well what do you know? A-"Uncle David" as we used to call him,

what I thought. Now, Sir, in answer to your question I would say that I do not

and John Whitmer and Mr.Phelps, they got into some little trouble in the church,-that is to say that were appointed here in charge of the church in the west, at Far West, and their administration was so arbitrary, that my father and some others entered complaint against them, and in view of this consideration it ultimately resulted in their being rejected from the church. Now that is the way they got out of the church, but all of the particulars about it, I cannot give you. All I know is that these facts occured at this time, and I learned it through my father.

277 Q-Was Oliver Cowdery on that number? A-I am not sure that he was in that number at that time.

It being impossible to complete the taking of the depositions here-in on this day, the further taking of the same was continued by the Notary Public until to-morrow, the same being Wednesday the 20th day of April 1892 at the hour of 9:30 o'clock A.M.

Now on this Wednesday the 20th day of April 1892 at the hour of 9:30 o'clock A.M. the same being the time to which the further taking of the depositions herein was continued on yesterday, come all the parties as afore said, and the further taking of depositions herein was resumed pursuant to adjournment,-

Cross examination continued by Mr. Southern,-

278 Q-Was Oliver Cowdery after the time of which you have spoken, when the Whitmers and others were excluded or cut off from the church, himself excluded from the church? A-I do not think he was at that time.

279 Q-You say you do not think he was excluded from the church at that time? A-No Sir.

280 Q-Well when was he excluded from the church, if at all? A-Well if he was at all it was at a date later than that and beyond my knowledge. You must remember that I have no knowledge of the operations that occured there at Nauvoo in Illinois,- I do not profess to know any thing about the affairs or occurences there at all.

281 Q-Then you do not know whether Oliver Cowdery was excluded from the church while it was in this state or not? A-No sir,I have no knowledge of that at all.

282 Q-You say you were aquainted with Oliver Cowdery? A-Yes sir.

283 Q-In Jackson County Missouri you knew him? A-Yes sir.

284 Q-At about what time in Jackson County did you know him? A-In the years of '31, '32 and '33.

285 Q-That was when you were residing here in Jackson County? A-Yes sir.

286 Q-What position did he hold in the church here at that time? A-Well at Independence here, we under stood that he had the superintendency of the church here at this point.

287 Q-Did you know his wife? A- Well I can't say that I was personally aquainted with her very much, any more than to say I saw her several times. I saw her a few times,and knew her when I saw her.

288 Q-Were you ever in his family? A-I was in his family enough to pass the time of the day, but as I was young I felt rather delicate about having any more to do with them than I had to. I did not have much to do with them, only as I had business with them.

289 Q-What was your age then? A-Well of course I was ten in '31, eleven in '32 and twelve in '33,- that was my age, ten, eleven and twelve when I was on this side of the river.

290 Q-Did you say you knew the same family in Clay County? A-I know

them in Far West again.

291 Q-You did not know them in Clay County, but you did in Far West? A-Yes sir, I knew them when they were in Caldwell County, but I do not remember that I visited them while they were in Clay County.

292 Q-Did you visit them in Far West or Caldwell County? A-Yes sir. I have seen them while they were in Far West,- I have seen him and his family at Far West.

293 Q-At what time was that? A-Well that was in 1835, '36, '37 and '38,-in'38, '37 and '36 I will say. I would not say that I saw them there in 1835.

294 Q-Did you see enough of them to know what was his pursuit or business there in Far West? A-I do not recollect his special avocation of life. I do not recollect the avocation of life that he followed there at all,and I do not pretend to state that.

295 Q-What was he doing in the church there? A-Well he was one of the,- well I believe he was,but I would n't say positively, but I believe he was one of the twelve in the church, and then he had the superintending care of the church. He looked after the church there I think, but that was,- Well I don't think he had the superintending care of the church there either. I think that belonged to David Whitmer and John Whitmer and Phelps, and they were afterwards excluded from the church as I have already stated. I think that Oliver Cowdery's official relation to the church was perhaps an apostolic relation. That is the best of my recollection or rather my impression at this time, but I could not say positively for it has been so long ago that I cannot remember distinctly as to that.

296 Q-Do you know when he left Clay County,- or Caldwell County I mean? A-Well it has been in my mind always that he left there in the Spring of '39. Some of my friends here have thought me in error in regard to that, and that it was in '38 that he left there, but it is in my mind that he left in the Spring of '39.

297 Q-Then you have been talking with persons here concerning that fact since you have been here this time? A-They asked me about it you know, and I told them when I thought he left, and some of them rather dispute me about that, but any way that is the date that is in my mind and always has been, that he left in the Spring of 1839.

298 Q-In the spring of 1839 you think he left Caldwell County? A-Yes sir.

299 Q-When did you leave? A- Well I left quite a bit after that.

300 Q-When did you leave there? A-Leave where?

301 Q-Leave Caldwell County? A-It was in 1842. It was some time in 1842 that I left.

302 Q-Where had you been living or residing up to 1842? A-Well I had an uncle here my father's youngest brother that lost his wife about the time of the troubles here, and he got married again in process of time. He married a lady of the state of Missouri who was a resident here and he was welcome to stay and I made it my home with him in Caldwell County, on what is know as "Mid Creek." He bought himself a farm there. It was three eighties of land,-that is three tracts of land of eighty acres each, and I made my home with him for I was only a boy or quite a youth at the time. I made my home with him there mostly.

303 Q-Where was that from Far West? A-Well that must have been some twenty miles from Far West,- I should think it was in the

neighborhood of twenty miles from Far West to where he lived at that time.

304 Q.?When did you go there? A-When did I go there to Mud Creek?

305 Q.-Yes sir? A-I went there I think it was in the fall of I839.

306 Q.-What point did you leave to go to Mud Creek? A-Well I was up to about Hahn's Mill at the time I went down there to Mud Creek.

307 Q.-Where is it from Far West? A-Well that is about,-I should judge about the same distance from Far West.

308 Q.-About the same distance from Far West that Mud Creek was from Far West. A-Yes sir, I think it was about twenty miles from Far West to Hahn's Mill,and I think when I reflect over that it was a little farther than that from Far West to Mud Creek. Well I think in a straight line it was a bout twenty miles from Mud Creek where my uncle lived to Far West.

309 Q.-At that time where did Cowdery live? A-Well he lived at Far West as I under stand it, at the time he left there. I know I saw him there occasionly when I was in the place. I most always called on him when I was in Far West especially as I always had a kind of a high regard for him. I always thought a great deal of that man,-

310 Q.-Where was that you did that? A- At Far West.

3II Q-Then he lived in Far West at that time? A-Yes sir.

5I2 Q.-Now state when you were shot at Hahn's Mill? A-In the fall of I838.

~~5I3 Q.-How long after that did you see him? A-How long a period of time?~~

3I3 Q.Did you see Cowdery after that? A-Yes sir.

3I4 Q.- How long after that did you see him? A-How long a period of time?

3I5 Q.-Yes sir, how long was it after the time you were shot at Hahn's Mill? In the fall of I838 that you saw Cowdery at Far West? A-Well it was as much as three or four months,- some where along there I should think. I should think it was three months anyhow after that that I saw him there.

5I6 Q.-Where did you see him then? A-It was at Far West that I saw him that time. I saw him there almost every time I think.

3I7 Q.- Well you say you saw him at Far West three or four months after this trouble at Hahn's Mill? A-Yes sir.

3I8 Q.-Did you ever see him at Far West after that time? A-No sir.

3I9 Q.-Did you ever see him after that time at all? A.Yes sir.

320 Q.-Where? A-Isaw him in the state of Ohio after that time.

32I Q.-Where did you see him? A-I saw him in the state of Ohio.

322 Q.-That was the next time you saw him after the time you say you saw him in Far West three or four months after you were shot or wounded at Hahn's Mill? A-Yes sir.

323 Q.-Where abouts in the state of Ohio did you see him on thst occasion? A-Isaw him at Tippin City, Ohio.

324 Q.-Where else? A-I saw him at Tippin City, Ohio, and also at Findlay City,Ohio,

325 Q.-When was that? A-That was in the latter part of I844. I saw him in I845 and in '46.

326 Q.-When did you land at Nauvoo? A-At Nauvoo?

327 Q.-Yes sir? A- Never,only as we passed through there. Well I did not pass through it. I passed by.it on the river, and looked off the boat at it. I saw it in that way, but was never in it.

328 Q.-Where were you going as you passed byit? A-I was going from Iowa to Ohio.

329 Q.-Then you have never been at Nauvoo? A-No sir, I have never

been there, and I do not profess to know any thing about what occured there.

I do not profess to know any thing about Nauvoo at all.

330 Q-You say you left this state when? A-When did I leave Missouri? is that the question?

331 Yes sir? A- About 1842 I think.

332 Q-What time was it in 1842 that you left Missouri? A-In the latter part of the year, I think it was in the latter part of '42 that I left Missouri

333 Q-I believe you stated in your direct examination that the people that lived at Nauvoo belonging to the church,- I mean the people at Far West, when they left there went to Nauvoo? A-Yes sir.

334 Q- And that was in 1838? A-Yes sir as a mass they went in '38, in the fall of '38 the most of them left, but they were going all through the winter, for they had three months to get away in and some of them did not leave until along in '39, but the mass of them went in 1838 in the fall of the year. As I said they had three months to get away in and most of them left in the fall and during the winter, but there was now and then one of them that did no go at all,- they never went.

335 Q-I believe also that on you direct examination you also stated they were ordered to leave? A-Yes sir.

336 Q-What was the date of that order? A-Well I dont remember just the date of Govener Boggs order. I don't remember that date exactly, but it was some time in November if my memory serves me right in regard to that,- I think it was some time in November.

337 Q-what church did you belong to after they left Far West? A-After I left Far West.

338 Q-Yes sir? A-In the state of Missouri?

339 Q-Yes sir? A-I did not belong to any only the one I had belonged to.

340 Q-Was it here? A-How?

341 Q-Was it here? A-The church?

342 Q-Yes sir? A-I do not under stand you?

343 Q-Was the church here in Missouri at the time? A-No sir.

344 Q-Well the church was not here in the state of Missouri after it left Far West? A- No sir.

345 Q-You still belonged to it, however? A-Yes sir. I belonged to it to the church in general, but I speak of it as it existed some where else.

346 Q-Where did you have your fellow-ship? A-I had no particular place of follow ship.

347 Q-You had no particular place where you followshipped with church? A-No sir,- so to speak, I stood alone.

348 Q-How was it with you in Ohio when you went there? A- I had no followship with any body so far as religion matters were concerned for there were no Latter Day Saints there, and I did not hear much of them only as I heard it through the papers.

349 Q-How long did that condition with you remain? A-Well I cannot say- that condition however continued for quite a while.

350 Q-Well about how long? A-Well I was rather active in the work for I was young and much more active than I am now, and I held meetings in the state of Ohio independent of any religion organization. I held meetings and got up quite an interest around me. There was the united brethren and I ministered to what was known as the „United Brethren in Christ", for they came in there and organized a church of about one hundred of what was known as the youngerly people that were brought to be religious through me and my labors.

there.

351 Q-Did you belong to the church with them? A-I finally consented to unite with that church.

352 Q-Well did you unite with them? A-Yes sir.

353 Q-And how long did you remain with them? A-I remained with it,- well my letter of dismissal from the conference will show when it was. I have a letter for me and my wife for 1860 but I did not get out of the church fully at that time, as I held a relation in their conference until 1862,-until October 1862; and I hold letters that are in my possession and very sacred to me, that will show my standing with them when I left them.

354 Q-Well what did you do then? A-Well then over and above following my avocation was a phycian,-for that was my avocation of life I did what some folks call preaching,-that is what I tried my hand at over and above following my avocation of life.

355 Q-In what church? A-In nobodys church in particular,-I just went around trying to do what I considered was best in the way of winning souls to repentance and salvation,- it was not in any bodys church for I stood alone.

356 Q-Well when did you become a member of the church again? A-I becam, a member of the "Re-organized Church here, that I now am a member of, after a bout three years ~~investiga~~ investigation of it to know and satisfy myself that it was clean from the Utah apostasy, and identical, so far as I could see with the church as it was primarily. And after about three years investigation of these matters and principles I became satisfied that it was following the doctrine of the original church,- That is the primary church,-and then I joined it.

357 Q-When did you become a member of the Re-organized church? of Jesus Christ of Latter Day Saints,- that is the question? A-I united with the re-organization on the 26th day of October 1884.

358 Q-Had you prior to that time belonged to any other sect of denomination professing the Mormon belief? A-No sir.

359 Q-You had not? A-No sir, I had belonged to no faction at all. Some folks sometimes call me a Mormon when I was preaching,- they would call me that after I got through preaching, but I did not belong to any sect or faction of the church at all.

360 Q-Some people called you a Mormon you say? A-Yes sir.

361 Q-Well did you object to it? A-Well sir I always stated my case in this way,-if believing in Jesus Christ, the bible and the gospel as it came from Christ and his apostles, made me a Mormon, why then I was a Mormon.

362 Q-How is it you remember so distinctly the name of Cowdery's children? A-Well these are the names of his children I got from him when I saw him.

363 Q-Saw who? A-Oliver Cowdery?

364 Q-When you saw him where? A-In Ohio.

365 Q-When you saw him in Ohio he told you that? A-Yes sir.

366 Q-Those are the names you got of him when you saw him in Ohio? A-Yes sir, at Fort Findlay and Fort Defiance.

367 Q-In what year was that? A- Well that was in the year of,- well it was in the latter part of 1844, '45 and '46. Those were the years he told me that.

368 Was he then a member of the church? A-I do not think he was. I am not postive to that, but I do not think he was.

369 Q-What was his avocation of life at that time? A-He was in the legal profession at that time. I was living in Fort Findlay at the

time, and I commenced the practice of medicine at the city of Findlay, the county-seat of Hancock County, and if I could I always made it a practice to attend court for I liked to hear it,- it pleased me especially in listening to the interesting cases, and occasionly Mr. Cowdery was there in court.

370 Q-Were there any other persons of your peculiar belief in that church with which you became connected in Ohio? A-Any other persons.

371 Q-Yes sir, any other persons in that church that entertained your peculiar religious belief besides yourself? A-Do you mean the "United Brethren in Christ?"

372 Q-Yes sir? A-Oh yes, there was a good many people belonging to that church.

373 Q-Did any of them style them selves, or claim to belong to the church to which you had originally belonged? A-No sir.

374 Q-There was no one else in the church besides yourself who claimed to belong to the church or to have belonged to the church to which you originally belonged? A-Oh yes, sir, there was one. There was one minister amongst them that had belonged to it, but he had been excommunicated and had joined them.

375 Q-Who was that? A-His name was D.P. Hurlbut or Hurlburt,- I do not know which it was but it was one or the other of those names I would not be positive which way he spoke his name but that was about it or something like that.

376 Q-Did you know William Strang,-J.J. Strang? A-No sir. I was not aquainted with Mr. Strang personally, but I have heard a great deal about him.

377 Q-Did you know Jason W. Briggs? A-No sir I was not personally aquainted with Jason W. Briggs either.

378 Q-Did you know Joseph Smith? A- which one do you refer to. Do you mean the martyr Joseph Smith as we call him?

379 Q-Yes sir. Joseph Smith the "martyr" as you call him? A-Oh yes sir I know him.That is I did use to know him, and have heard him preach.

380 Q-When did you first meet him? A-Well I think it was in 1830 before we first came to this country at Hyrum.

381 Q-Where? A-At a city known as "Hyrum in Ohio.

382 Q-Where next did you know him? A-At Far West when the church was in this state.

383 Q-You met him at Far West again? A-Yes sir.

384 Q-Where next did you see him? A-After he left Far West I never saw him any more after that.

385 Q-Now you said you knew a man by the name of Partridge? A-Yes sir I knew Partridge.

386 Q-What was his name in full? A-Edward Partridge.

387 Q-That word is "Patridge" is it? A-Well that is the way I understood he spelled his name,- "Edward Partridge". I know the man you refer to,he was the bishop of the church at that time.

388 Q-Did you know his family? A-I did not know so much about his family,but I knew him.

389 Q-Did you know his family as well as you did Oliver Cowdery's family? A-No sir.

390 Q-Did you know how many he had in his family? A- "Patridge?"

391 Q-Yes sir?A-No sir.

392 Q-Who else of the church that was at Independence in 1831, '32 and '33 is in the Re-organized Church at the present time, that you know? A-Well I don't know as I could say without hearing their

names called over. If I heard their names called I might be able to answer that question, But I can't do it unless that is done.

393 Q-Do you know of any one? A-That was here at Independence at that time?

394 Q-Yes sir? I know persons that were here at Independence that were members of the "Re-organized Church, but whether they were members of the church at that time. I know one that was in the church at that time, but I do not know whether he was here in Independence, but he was on the other side of the river.

395 Q-Who is that? A-That is Mr. Brackenbury.

396 Q-Did you know him at that time? A-Yes sir, I was aquainted with him and his boy on the other side of the river, and I understand that they were here in Independence at the time.

397 Q-Were you aquainted with him there? A-How?

398 Q-Were you aquainted with him here in Independence? A-I can not say that I was really aquainted with him here in Independence. He did not live here in Independence, for his folks lived up at the Whitmer Settlement, and I was only up there occasionly as they had meetings or something like that, and so I do not know that I was aquainted with them at that time, but I was over the river.

399 Q-Well do you know of a single person, know a member of the Re-organized church excepting yourself, who was a member of the church at this place in 1881, '82 and '83, when you were here? A-I do not know of any, or can not call any to remembrance now that were here, but I have no doubt but that there are members in the church that lived here at that time.

400 Q-Wouldn't you have been apt to have found out such people for the purpose of talking over old times and renewing old aquaintances if there were any such? A- A-Well I have talked with a good many about old times, but it referred more to old times on the other side of the river that on this side. Now there is an old sister at Lamoni,- I forgot her name,- but it seems to me that it is Marks now,- at any rate it is a different name than the name that she bore at the time I knew her, and she was a member of the church in Caldwell County.-

401 Q-Then you did not know her here? A-No sir, it was in Caldwell County, and I don't know that she was here, but she was there in Caldwell County.

402 Q-Well if you can't mention any names it is unnecessary. to pursue this line of investigation any further? A-Remember that was a long time ago, sixty years ago, and that is a long time, and about all the members of the church that were here at that time have paid the debt of nature are gone to their last rest. Now that is the way it is. I would not undertake to mention any names, but if the names were called off to me of any such members of the church I might be able to recognize them, whether they had been here or not.

403 Q-Well if you cannot mention the names of any persons who were members of the church at the time you were here in the years you have mentioned, and who are now members of the Re-organized Church will you please state the names of all you can remember of persons who were in Clay and Caldwell Counties up to the year 1838, who were at that time members of the church, and who are now members of the Re-organized Church? A-I would not be able to do that because my memory for names in late years has failed me,- that is

the names of persons that I have heard a year or two or three years ago is not clear and distinct in my mind like names that I have heard twenty years ago, or thirty years ago,

404 Q-Well I am calling for the names of persons that you knew forty or fifty years ago? Can you give any of them? A-Well now I would not under take to recall any names that I know other than the names I have given on my direct examination, for it has been so long ago that I cannot remember. It is considerable over fifty years since these things occured about which you asked me, and that is a long time to remember things like that. You ask me for the names of persons that belonged to the church then that belonged to it here and who belong to the Re-organized church now, and that is something ~~xx~~ I could not under take to give you. If I heard their names called I would probably recognize them at once, but I would not undertake to give any names as an act of my memory

405. Q-Well at what conference were you admitted as a member of the Re-organize Church? A-At what is called the Northern Michigan conference.

406 Q-Where was it held? A-It was held at Vassar Michigan.

407 Q-Were you ~~xxxxx~~ ever baptised more than once? A-No sir.

408 Q-Were you ever baptised for the dead? A-No sir.

409 Q-You were not? A-No sir,- Unless I was called the dead myself.

410 Q-What office or position do you hold in the Re-organized church? A-Iam an Elder in the church.

411 Q-Do you belong to any of the quoroms? A-Yes sir.

412 Q-What quorom do you belong to? A-The High Priest's Qourom is what I belong to.

413 Q-Then I suppose you are a High Priest? Is that the fact? Are you a High Priest? A-Yes sir.

414 Q-You are a High Priest? A-That is what they call me.

415 Q-When were you ordained as a High Priest? A-That was at the Kirtland conference on year ago this sring.

416 Q-Is an Elder of necessity an High Priest? A-How?

417 Q-Is an Elder of necessity an High Priest in the church? A-No sir, but an High Priest of necessity is an Elder in the church, but not an Elder an High Priest.

418 An High Priest is of necessity an Elder in the church, but an Elder is not of necessity an High Priest? A-Yes sir, that is the way it is,- you have it right.

419 Q-Did you hold any position in the church here at Independence or in the church at Far West? A-Did I what?

420 Q-Did you hold any position in the church here at Independence or in the church at Far West? A-Not at Independence any further than being a simple lay member. but at Far West in the month of November 1837 my father choosed to set me apart as an Elder in the church when I was sixteen years old.

421 Your father did that? A-Yes sir.

422 Q-Did you do that at the church or at home? A-At a conference that was held at Hahn's Mill that he had charge of.

423 At Q-~~xxxxxxxx~~ A conference that was held at Hahn's Mill you say? A-Yes sir.

424 Q-What kind of a conference was that? A-A district conference.

425 Q-Was that done at his,- on his own motion exclusivly and entirely? A-I do not remember that it was done on his motion entirely, but it was not done without the consent of the conference. There was a vote taken on it of the number present,-that is in regard to it?

426 Q-You remember that was the case? A-Yes sir.
427 Q-That there was a vote taken? A-Yes sir.
428 Q-That you should be an Elder? A-Yes sir.
429 And it passed the conference? A-Yes sir.

430 Q-And your father ordained you? A-Yes sir.
431 Q-When did your father leave the state of Missouri? A-Well I would not say whether it was the fall of 1842 or in 1843. That is the time he left the state I think, but he had left that part of the country before that and had gone down into the village of Madison in Monroe County, and he bought some property there, and still he held it in my name,-
432 Q-What is that,-I did not quite under stand that? A-I said he went to the town of Madison in Monroe County, and bought some property there, and when the deed to it was made out it was made out in my name, for he did not know how soon he would be ordered away from there so he bought the property and had it in my name, and then he built a blacksmith shop on it and a small house on it, and staid there a little while,-not a great while, and then he left there and went up in Iowa.
433 Q-I believe you stated in your direct examination that you were na back here in Independence after you left the first time? A-Yes sir I was back here a few years ago.
434 Q-I believe you also stated that it was in 1853 that you were back here? A-In 1853?
435 Q-Yes sir? A-No sir, I did not make that statement.
436 Q-I was under the impression that you stated you were here then? A-No sir, your impression is an erroneous one. I was never in Independence. I was in Kansas City but I never was in Independence from the wintor of 1834 I believe it was,-the last visit I had here was the time that my father came over here to the town from Clay County on the investigation of the merchants to trade, and had the difficulty I spoke of yester-day,- that was the last time I was here before 1885 when I came here and attended the conference. I had been in Kansas City in the interim but that was the first visit I paid to Independence in all these years that intervened.
437 Q-When were you at Kansas City? A-Oh, I have passed through Kansas City several times.
438 Q-Well when was it? A-I could not say for I do not remember. I have passed through Kansas City and have got out in Kansas on a trip of recreation for my health for a visit of a couple or three months at a time, then I would come back again.
439 Q-Well in what years did you make these trips?- was it in the '50's any time? A-Oh no, it was later than that. Let me see it was,-well it must have been in the '70's some where that I was up in there.
440 Q-Have you been at any time over in Clay County or over in Caldwell County in this state since that time,- that is since you left here in '38 or '39? A-I was at David Whitmer's and General Doniphan's in Richmond, in Ray County in 1885, and I was also at the same time in Caldwell County and visited there at several places in Caldwell County in the same year.
441 Q-That was in the year 1885, A-Yes sir.
442 Q-Did you know one Doctor McClellan in the early days when you were here? A-I have heard of such a man.
443 Q-Well did you know him? A-Well it was this way. I knew him by name and I have seen him, but I did not see him enough to be able to describe him,- that is to describe the man, but I know enough of

him to know that he was a man that caused difficuly, and gave rise to litigation in the minds of some of the Saints about some trouble they had. I know that much about the man, but that was from hearsay, and not what I know of my own knowledge,-

By Mr. Kelley,- "Well confine your answers just to what you know yourself, for any thing that you heard from any other person is not addmissible."

By Mr Southern,-

444 Q-You know this man then? A-Yes sir, I know him when I see him, but I know him better by hearsay. I know there was such a man but I cannot describe anything about Doctor McClellan. I knew more of Doctor Marsh than I did of Doctor McClellan.

445- Q-Who was the govener at the time you left this state in 1842?
A-Who was the govener of the state?

446 Q-Yes sir, if you remember, you may state who was the govener?
A-I do not remember.

447 Do you remember anything about the time when Boggs was the govener?
A-Boggs.

448 Q-Yes sir? A-Well yes I know he was the govener in 1838. I know he was the govener then. I remember that right well for that was the time that they made the raid on the Saints there at Far West.

449 Q-Do you know whether or not after his term expired the re was any more such orders issued as he had issued, by any govener of Missouri, or any authority? A-No sir, I never knew of any other orders being issued by any one, such as he had issued. I never knew of any such orders being issued by any other Govener but him.

450 Q-Do you know of any other prosecution or deprivation of their rights or property of the people whom you have termed "Latter Day Saints" after the death of Boggs in this state or in this section of country?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial and improper cross examination.
A-I don't know of any thing of the kind occuring here of course, for I was not here and I do not know that there was any of the Latter Day Saints here; and after they left Missouri I do not remember that there was another prosecution. There was some hard saying about them sometimes, but I do not remember anything further about that in the way or persecution. It is not likely there was though for it is my under standing there was none of the saints left in the state to persecute.

451 Q- Do you know why, if they had rights,- if the members of that church that was here and in Clay County, and in Caldwell County, had rights to property in those respective counties,- do you know why they never asserted these rights in the courts of the states?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, not proper cross examination and calling for an opinion of the witness.
A-You want to know the ross on why they did not assert their rights in the Courts?

452 Q-Yes sir,-do you know why they did not? A-Well I understood that,- I will say I have understood so far as history is concerned, that they at different times did assert their rights at certain places, but never obtained any hearing.

458 Q-Do you make that answer apply to the courts of the state, or the courts of the United States or both?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent, irrelevant and immeterial, and not proper cross examination and calls for an opinion of the witness, and also object to the last answer of the witness. And move the court to strike it from the record for the reason above given and also on the ground that it is hearsay.
A-Well I will make that apply first to the United States. I will not say in regard to their making personal efforts in the civil courts of the state of Missouri to secure their rights, but I think it is fair to assume that viewing the way they were treated, and knowing what I know of the feeling that existed during all the time I was hear in the state, that justice could not have been obtained. I would not say that personal efforts were made by individuals in that respect in the civil courts of this state, but if my memory serves me right I believe there was some effort made with the Govenor, or one of the Governors of the state of Missouri to obtain redress or compensation for the loss and damage sustained. But I would not say postively about that. That is something I do not know of my own knowledge, and after I went out of the state of Missouri I did not hear much more about the Latter Day Saints, unless I heard it through the papers. I heard that Mr. Young went off into Utah with his faction and took a good many with him, and raised this trouble,- this terrible apostacy in regard to polygamy, and what I heard of the church was evil, and only evil and that continually- and indeed there was a time for quite a while,-quite a number of years that I supposed the Latter Day Saints had all gone off to Utah with Brigham Young to the devil. Now gentlemen that is just what I supposed.

451 Q-Well was that a fact? A- What?

455 Q-was that a fact that they had all gone to the devil? A-Well if it wasn't a fact it was pretty near a fact. I think it was pretty near a fact.

456 Q-It was? A-Yes sir I think so. There isn't much doubt in my mind on that point. I say that because I have studied the matter and I have stated it publicly in the history of my life, that I would rather that all the devils in hell after me than one woman devil, and it seems that he had a good many of them after him.

457 Q-That was one objection to polygamy in your mind? A-Yes sir.

458 Q-Because it was uncomfortable? A-It would be for me.

459 Q-Do you feel interested in the result of the suit in which you are testifying here? A-Well so far as having a final disposition of it, fairly, righteously, honorably and legaly I am. Nothing beyond that however.

460 Q-Do you know why an effort has not been made by the church to which you now belong to bring about this litigation long before this time? A-No sir, I don't know the reasons why that has not been done.

461 Q-I presume you have no connection with the management of this case or of this suit? A-No sir, I have no connection with the management of it all.

462 Q-You say you want to see it legaly and righteously and honorably settled? And all that sort of thing? A-Yes sir.

462 Q-Well is it not a fact that you have a preconcieved-notion of what would be a legal and honorable settlement of it? A-I would

not without hearing the law and evidence. If you present me the law and the summing up of the testimony, I would then give you my judgement of the matter and not until then.

464 Q-Do you know anything as to the claims of the re-organized church for other lands in this county and in other counties in Missouri? A-I do not.

465 Q-That is all.

Re-direct examination by Mr.P.P. Kelley,-

465 Q-Doctor Rathbun you stated on your cross examination that some time in your history after you left Missouri you made up your mind that about all the Latter Day Saints had gone with Brigham Young? A-Yes sir, that is what I said, and that was the idea I had in my mind.-

466 Q-Hold on I have not finished the question,- you stated that ~~they were all gone with~~ you thought they had all gone with Brigham Young to the devil? A-Yes sir.

467 Q-You stated that in substance? A-Yes sir.

468 Q-And that is what you thought to-is it not?A-Yes sir. I made that statement.

469 Q-I will ask you now if afterwards you found out that your opinion or idea xxx in that respect was well founded, or was not well founded and a great many of the Latter Day Saints, as you term them never went with Brigham Young at all? A-Yes sir.

447 Q-You may go on and state how that knowledge came to you? A-In 1880 I was living then in Eaton County, Onedia,-Grand Ledge was my post office, and most of the time from 1849 up to the time that I moved to Lansing I was living there. Well as I stated while I was living there in 1880 my mail came in one day, and amongst the mail, or the papers that I received by mail was a newspaper called the"Detroit Echo," and it was the weekly edition of that publication,-or rather I should say it was a weekly edition of the xxxkky evening news, and on the title page of the paper I noticed in capital letters the word "Mormons", and as I was in the habit of reading in every and any paper I could get my hands on anything that referred to Mormonism, I stepped right out of the door, for the papers were handed me as I was standing in the door, and I read this article. Well the article that attracted my attention when I came to read it I found it went on to explain that there was a Re-organized Church of Jesus Christ of Latter Day Saints, and that there was about thirty-thousand of them, and that they had missionaries in Europe and in Australia, and in the South Sea Islands and various other parts of the world,- I can't say where all for I do not remember all of the places where the article I referred to stated they had missionaries; but I recollect that it went on and stated that they had a conference in nearly every state and territory in the Union , and in the state of Michigan they had a conference , and it stated the number of Elders they had in the state but I forget the number, but any way there was quite a number of them.I also learned that there was a paper called the "Saints Herald" which was the official organ or paper of the re-organization, and that Joseph Smith the son of Joseph Smith the martyr, was the editor of that paper, and that he was the President of the church. It went on and stated a great deal about the re-organization and gave a great deal of valuable information other than what I have stated,for what I have said is simply an outline of the main facts ~~that~~ set forth in that article. Well after I got through reading it,- that is reading that article,- I called my wife's attention

to it, and I sat down in a chair and read it over to her, and when I got through I said to her "I am going to send for that paper" refering to the Saints Herald,- and I said "Perhaps this is nothing but a paper blow like a good many other things I have seen in newspapers" I said that for I had no idea that I would ever hear from it. Well I sat right down and wrote a card to Joseph Smith and directed it to Lamoni, Iowa, where the article I refer to stated the headquarters of the organization was, and stated in the card that if it was a fact that he was alive and publishing a paper called the Saints Herald, I would be glad to have him send me a copy of the paper by return mail for examination, and signed my name to it, and below that I wrote the post scrip, and said "I knew your father in his life time, and when I knew him to be not a polygamist." I can't say those are the identical words I used, but it was in that language substantially. Well then I put it in the post office and as I was busy in my professios I did not pay much attention to it,- for in fact I would not have been surprised if I had never heard from it again, so at the time I may say I forgot all about it, but when Saturday came sure enough the paper came, and I was surprised to learn that there was a people called the Latter Day Saints" still in existence,- that is I learned it officially so to speak from this publication the Saints Herald, and that they had not all gone off with Brigham Young to what is now know or called Utah.

All this information and knowledge was a matter of great surprise to me, and what surprised me more than any thing else, and is a wonder to me even to this day, is that in traveling over that southern ~~peninsula~~ penninsula of Michigan as much as I have, visiting so many towns, houses and school houses, practicing my my profession and preaching the gospel as I visited in that state and especially in that part of the state, that I never ran across a Latter Day Saint or heard of one until I saw it in that newspaper on that occasion. That is something that is entirely incomprehensible to me, and something that is absolutely beyond my under standing, for it is a fact that up to the time I caught that article I never heard of a Latter Day Saint but what was connected with that apostasised church in Utah except James Jesse Strang and some of his connections. That was a matter of such astonishment and utter surprise to me , that at first I could hardly believe my senses when I learned that there was so many of them there in my own state, and in my section of the state all around me, and I had never heard of them that I did not know what to make out of it. I found that up in the north part of Iowa and in the south part of Iow a and around Lamoni for I had traveled through that country on both sides of the states and had heard nothing about it. I have been up here in Missouri at Maryville and have preached there to the people, and yet although I was so close to them I had heard nothing of them. I had been up here in the state of Kansas and preached to the people there, and had heard nothing of them in all my travels, and I learned afterwards that I had been right around where there were and had really mixed up with them, and that is a matter of surprise to me to this day how I never ran across any of them. Now gentlemen what I have detailed here is just how I came to learn of that organization,. Well as I stated before that paper came in response to my inquiry, and I took it and read it, and then I wrote a note to Joseph Smith to learn when the conference would be in Michigan, and in reply he sent me the date and where it would

be held,but he did not tell me in his reply who to call on. I then in the paper learned the name of Bishop Blakeslee,and that he was a president of my own state,and then I dropped him a card informing him that I would,-or that I was expecting to attend their conference at Coldwater,and there I wanted to make my acquaintance with them,and I would be pleased for him to tell me whom I should call on,and he sent me fournames he sent me the name of W.H.Kelly,- the name of W.Lockerby,- and the name of Edwin or Edward Whalley,-I don't know which the name is but it is E.Whalley anyhow,and the name of another man called Louck,-I don't remember his given name either. He sent me these four names I have given you,and I see from t the manner of his address he was a business man,and I took it he wrote these names in the order which he would be pleased for me to call,and as the name that came first was W.Kelley, Isat down and wrote him a card and told him I.was going to the conference to get acquainted with them,-

471 Q-Well we don't care about all that history? A-Well I wanted to tell how I came to be acquainted with them,-that was all.

By Mr. Southern,-

472 Q-It is a very interesting story and I would be glad to hear it? A- Well to cut the matter short that is the way I learned there was a reorganization and that all the Latter Day Saints had not gone to Utah with Brigham Young,-I got acquainted with them for I attended the conference,and then I commenced to make myself acquaintd with their doctrine. II began my investigation of the Reorganized Church.

By Mr.Kelley,-

473 Q-Well we don't care ,-you can make your statement if you so desire,-make it in your own way? A- Well that is about all of the statement I have to make,for that is the way I became acquainted with the Reorganized Church.

474 Q-Now at the time you were here in Jackson County,and went across the river;what, if any thing,was done by the members of the church in the way of disposing of their. property here,if you know,before they left? Now I am asking you for your personal knowledge if you know anything about it? A-Well when they left here they had to leave without disposing of their property as far as I know. That is the way they left so far as my knowledge extends,for they did not have time to make any disposition of it.

475 Q-What opportunities so far as you know was there for them to dispose of their property? A-I don't know of any,-that is I do not know of any here in Jackson County,and so it was in Caldwell County with this exception that they had three months to get away in from Caldwell County,but n o time to speak of was given them to get out of this County. That was all the opportunity that I know of their having to dispose of their property.

476 Q-To what do you refer as ;"all the opportunity they had to get away in"? A-The three months that was given them to get out of Caldwell Cuonty in. Some of them did manage to dispose of their property in that time by doing so at a great sacrifice, and others could not dispose of it during that time.

477 Q-You were asked yesterday on cross-examination Doctor,something with reference to the name of the church? A-Yes sir.

478Q- Now I will get you to look at Exhibit E,Sec. 43 Par. 4 & 5 on page 173,being portions of a revelation given in June 1829, and I will ask you to read from the word"take " in the tenth line from the bottom

of the page and paragrapg for, down to the middle of paragr-
apg five

Counsel for the defendent objects to the question asked the witn-
oss on t he ground and for the reason that it is improper red-
irect examination, and incompetent and irrelevant.

A-Shall I read it out aloud?

479 Q-Yes sir? A-"Take upon you the name of Christ and speak the truth
in soberness and as many as repent and are baptised in my
name which is Jesus Christ, and endure to the end, the same
shall be saved. behold Jesus Christ is the name which is gi-
ven of the Father, and there is none other name given whereby
man can be saved; wherefore all men must take upon them ~~which~~
the name which is given of the Father for in that name shall
they be called at the last day;wherefore if they know not
the nanw by which they are called, they cannot have place in
the kingdom of my Father.
And now behold there are others who are called to declare my
gospel, both unto Gentile and unto Jew; Yea,even twelve; and
the twelve shall be my deciples and they shall take upon them
my name and the twelve are they who shall desire to take upon
them my name, with full purpose of heart; they are called to
go into all the world to preach my gospel unto every creature,
and they are they who are ordained of me to baptise in my
name according to that which is written; and you must have th-
at which is written before you,wherefore,you must perform it
according to the words which are written".

480 Q-I will get you to look at Exhibit E,Doctor Rathbun, section two
page seventy nine paragraph seven and read it to the reporter
commencing with the word "all"? A-"All those who humble them-
selves before God and desire to be baptised , and come forth
with broken hearts and contrite spirits, and witness before
the church that they have truly repented of all their sins
and are willing to take upon them the name of Jesus Christ,
having a determination to serve him to the end, and truly man-
ifest by their works that they have received of the spirit of
Christ unto the remission of their sins shall be received by
baptism into this church".

31 Q-Now I will ask you if you were acquainted with a party here in
Independence by the name of Samuel Wood or Woods? A-Connected
with the church do you mean?

32 Q-I don't know whether he was connected with the church or not.
perhaps he was connected with it? A-I don't have,-I do not
get him distinctly in my mind now.

3 Q-You do not remember of such a party here at Independence at the
time you lived here? Is that what you say? A-I don't recall
distinctly any such person.

4 Q-You were asked yesterday about the plat of ground known as the
"temple plot" as you called it, or "temple lot",- you called
it "plot" or "plat", while others called it"lot"; and in
your cross examination you stated that the"plat" or "plot"
primarily understood it was fifty and some odd acres or
seventy some acres? A-Yes sir or there abouts.

5 Q-Fifty or seventy odd acres or thereabouts was the amount of it
as you under stood it? A-Yes sir.

6 Q-I will ask you to state now Doctor Rathbun ,what if any thing
was done by the church before it left this county of Jackson
towards setting any particular part of that piece of ground
off, and dedicating it for church purposes,- temple purposes
or whatever it was. Just state the facts about that if you
know anything? A-Well

it was my undrestanding of it,-it was my understanding of it was that at time,that that was,-there was not a very large portion of it,but rather a small portion of it,-

By Mr.Southern,-"I object to his stateing what his understanding of it was, -let him state the facts".

By Mr. P.P. Kelley,-

487 Q.- Just state what you know about it Doctor?

By Mr.E.L.Kelley,-

488 Q.-You can state the manner in which it was held by the society at that time?A-There was a small portion of it that was set apart and consecrated for the purpose of building a temple on sometime in the future,and that portion of it was the portion that they occupied for religious worship from time to time. I would state however,that I did not see it consecrated,nor did I see it set apart. At the time it was set apart I was not present, but I saw it occupied and was present at the time of the occupation thereof for religious worship a great many times, as the lot that was set apart and consecrsted for the purpose thereon was used for religious worship,and I was present at religious worship a great many times.

By Mr.P.P.Kelley,-

489 Q.-I wil ask you Doctor if you heard any public declarations from the stand or platform of the fact that that lot had benn dedicated and consecrated for the purpose of building a temple thereon at some future time,or in substance that?

Counsel for the defendant objects to the question asked the witness on the ground that it is irrelavant and immaterial an dnotxxh the best evidence.A-May I state it?

490 Q.-Yes sir,-just go on and answer the question? A-I have heard announced I cannot say how many times,but more times than one,-I would not say how many times,but several times anyway,-I would not say how many times,but more times than one anyway as I before stated, and I have heard the anfoumcements made from the stand when speaking there,that this lot was sacredly consecrated and d dCdicated by God for the building of HIS. temple there. That I have heard stated several times.

491 Q.-Can you mention the name of any one who you heard make that statement? A- I have heard Oliver Cowdery make that statement, and I have also heard Mr.Phelps on several occasions make the same statement,and I have also heard some others make the s ame statement.I have also heard others in general conversatoi make the same statement,but not publicly like these other men I have mentioned. It was a matter of common notoriety that this piece of ground was set apart and solemnly dedicated fot the purpose of the building of a temple some time in the future,and that temple was to be used for the purpose of worshipping Almighty God.

492 Q.-At the time of those declarations were made do you know whether or not Edward Partridge was -present? A-When Oliver Cowdery and Mr.Phelps made these declarations he was present.

Counsel for the Defendant objects to the question and the answer of the witness on the ground that it is irrelavant and immaterial,and not the best evidenc.

493 Q.- What did Edward Partridge say,if anything,with reference to that subject?

Counsel for the Defendant objects to the question asked the witness on the ground that it is testimoney that is not admissable under any

rule of law admitting testimony.
A-Well your speaking in reference to that reminds me of a fact that Mr.Partridge himself stated publically the same thing,that it was consecrated, dedicated and set apart for the building of a temple for the worship of God, for I heard him state that publicly also.

494 Q-You have Edward Partridge, you have heard Edward Partridge also state that publicly? A-Yes sir.

495 Q-Where were the declarations of Partridge made? A-Right there.

496 Q-Do you mean on the grounds where the meetings were held? A-Yes sir,-on the grounds where the meetings were held, for that would be the time when they would speak specially about it. They seemed to speak of it as being a sacred spot.

497 Q-I think that is all we have to examine the witness on?
Re-cross examination by Mr. Southern,-

498 Q-Where these accurances ~~took place~~ of which you have just spoken took place, it was in amongst the trees was it not,-wasn't it right there in the woods? A-Yes sir it was woods.It was all woods around there at that time.

499 Q-There was large trees standing around? A-There was some pretty good sized trees there.

500 Q- And was not the stand from which the speaking was done set up against a tree or some trees? A-I don't remeber about the stand being set against some trees. There was a stand made there, but I think it was rather to one side of a tree. The end of it may have been secured to a tree though, I wouldn't say that was the case, but the other end was on posts that were set up there.

501 Q-Was or was not shelter from the sun obtained by the trees ? A-Yes sir there was sufficient shelter for the meetings. It was in a shelter place.

502 Q-These meetings that I understand you to have spoken were held in the warm weather? A-Yes sir.

503 Q-They were not held there at that time in the winter?A-No sir.

504 Q-Were they held there on more than one spring or more than one summer? A-They were held there in the summer and fall,- it was the latter part of the summer of 1832, and I think the fore part of -just the fore part of or early in 1833, and that was all.

505 Q-Are you able to state whether there was any trees at that time where the present temple of the Reorganized Church is built? The present church of the reorganization is what I refer to? A-Well I do not call it a temple,-I call it a meeting house.

506 Q-Well a rose, you know, is just as sweet when called by any other name? A-How do you ask me that question? A-

507 Q-I ask you whether or not there was trees at that point? AWhere our place of worship is now? where that house stands?

508 Q-Yes sir? A-Yes sir, I think there was trees there. Now I would not say postively , but that is my mind about it.

509 Q-You stated there was trees over quite a large proportion of that fifty or seventy-five acres of which you speak as composing the temple plot? A-Yes sir. In traveling over it at that time I do not think that there was any part of it that could be called absolute prairie. There was places on it where there was not so many trees,- where the woods were thiner, and where there was brush on it, but I don't think any of it could be called prairie or places where you could go out and mow prairie grass.

5I0 Q-Did any body ever show you the bounds of it? A-Of the templeplot
5II Q-Yes sir? A-No sir,-not as far as I know, I never saw the lines of it, Well I have passed across what was said to be the line on this side of it, but the boundary line all around it I cant say anything about that, for I never went around it to see the boundary line of it, but so far as I seen it, or observed over the plat why I have no recollection of any absolute lines.
5I2 Q-I believe you states yesterday that there was no road running by it on the north of it when you were there? A-On the north,-?
5I3 Q-Any road running in a westerly direction and on the north side? A-I don't know that I stated that there was no road running north. I have no recollection of making that statement. I do not recollect now that there was, but if my memory serves me right now there was a road that run down,- well I don't know just where it was, but it was on the north side,- I can't say just as to how that was for it is so hard for me to get the longitude fixed in my mind and keep it there, If I could get the longitude and latitude fixed in my mind I could tell you more about it,-but I think it was rather on the north side there that the road run.
5I4 Q-Well what sort of a road was it if any? A-It was a mule road that was cut out there, and not for a wagon road I think I don't know that it went to the extremity of that plot,-I don't know that it did, but it run down there to it and along it some way or other,- I can't remember how that was.
5I5 Q-Did it run into it or not? A-In what way do you mean?
5I6 Q-Did the road you refer to run into the grounds? A-I knew,-I remember we could drive in on to the plot, for they drove in in on to the plots to the place where they held the meetings.
5I7 Q-From what direction did this road upon which they drove in come or go to the temple plot? A-It came from the village.
5I8 Q-It was a road from the village? A-Yes sir.
5I9 Q-Do you know whether there was more than one wagon road leading from any direction into these grounds or onto that lot? A-I think that the road that run out from the village,- The main road that run out this way,- there was a road that turned off from that and went in on the grounds. My memory is that there was a road that turned off from the main road that led out from the village and that went to the temple plot or to the grounds where the meetimgs were held.
520 Q-Turned off, to the north or to the south? the road going west you know is the road that I referred to, and I want to know what is your recollection as to whether that road turned off to the north or to the south from that road? A-There was a road running west,-
52I Q-Yes sir, and now I want to know if the road that you say turned off from that road ~~that road~~ and led to the temple lot,- whether that road turned off to the north or to the south,- to the left hand or to the right? A-I think it turned off to the left if my memory serves me right it turned off to the left, but this was a good while ago and I could not state absolutely how that was, but that is my recollection now that it turned to the left.
522 Q-Well how long was that road that turned off this main road? A-I could not say just how long it was. It did not go any xxyx great ways until it got down to the lot.
523- Q-Well was it five-hundred yards? A- No sir, I don't think it was.
524 Q-Was it three-hundred yards? A-Well it might have been. I would

not say postively in regard to that.
525 Q-It might have been three-hundred yards? A-Yes sir. It might have been an again it might not have been.
526 Q-Well what would you place as the lowest limit of the distance? A-Well I would say three-hundred yards or there abouts,-more or less.
527 Q-Now at that time you say there was some of this lot set apart for the church? A-Yes sir.
528 Q-Do you know how much was set apart? A-Well I have it in my mind that there was about three acres. Three acres, or such a matter. I don't think there was more than that, for I think they called it three acres or about that amount.
529 Q-Was the boundries defined in any way? A-Well it was not so very well defined so far as corner posts or any thing like that is concerned, but that had it marked out so they knew where it was, but I do not know that there was any corner posts established. I could not say that there was any corner posts or stones established or any established lines, but there was about three acres that I know they said were set apart, or in the neighborhood of that amount.
530 Q-Did they own the whole of it?or claim the whole of it as the plot? A-Yes sir.
531 Q-Then how was three acres set apart in contra-distinction from the rest of the plot? A- Well that was set apart for the temple lot,and the rest of it was for the purpose of settling saints on it,for the homes of saints ultimately,and they concluded to buy more lands than that. Their idea was to buy more lands than that and ultimately settle homeless saints upon it.That was what the idea of the church authorities was at that time.
532 Q-Well was the church at that time buying property to sell to its members? A-Well during this time they got obtaining monies more more or less,-they did not obtain much,but they obtained some and with it bought some lands.
533 Q-The church authorities bought some lands you say? A-Yes sir.
534 Q-With money obtained from members of the church?A-Yes sir.I do not know anything about how much land they bought in that way,but I know they were buying some land.
535 Q-The church was doing that?A-Yes sir,Bishop Partridge was for the church.
536 Q-Was he the church? A-He was the one that was handling the money for the church as the bishop of the church,or agent of the church,and under our form of church government he had the handling of the church money.
537 Q-What authority,if you know,did he have to do that? A-He was appointed by the president of the church to do that.
538 Q-You say he was appointed by the president of the church? A-Yes sir.
539 Q-To do what? A-As the bishop of the church,and he was directed among other things to buy lands for homeless saints.
540 Q-How do you know that to be a fact?A-Well all I know about that was,-I did not see any articles agreements or anything of that kind,but I heard them talk about it,and I talked about it with Bishop Partridge myself and I know that my father gave him some money on it.
541 Q-On what? A-To buy land with.
542 Q-To buy land? A-Yes sir.
543 To buy what land? A-Any land that the Bishop would choose to buy.

544 Q-Where? A-Anywhere.
545 Q-Did he buy land else where in this county?A-I couldn't say how much he bought. I suppose he bought land elsewhere besides that.
546 Q-Can you tell whether or not he bought any land for himself, as a prive individual? A-Well it rather strikes me that he entered that land in his own name,-I wouldn't say potively but that is the idea I have of it,that he entered that land in his own name
547 Q-What land do you refer to? A-The temple plot,-I think that was the way it was, but then it was understood by everybody that it was the church property property.
548 Q-Do you know enough of his affairs to be able to state that he bought any land for himself as an individual? A-I do not think he did otherwise,-
549 Q-You don't think he did otherwise,- I don't understand that? A-Well other wise than I have stated,- that he was buying it for the church.
550 Q-He bought land for the church? A-Yes sir. It makes no difference to me how he bought it or entered it or deeded it,-if he deeded it incorrectly that makes no difference to me.
~~551 Q-Well that is something I was coming to,- if he bought the land for the church how could he make a deed to the land to the parties that put their money into it? A-Well I say that is something that I have nothing to do with, and anything I would say on that question would be merely my opinion. I know that he bought lands for the church, and money was placed into his hands by different members of the church with that objest in view.~~
551 Q-Well that is something I was coming to,- if he bought the land for the church how could he make a deed to the land to the parties that put their money into it? A-Well I say that is something that I have nothing to do with, and anything I would say on that question would be merely my opinion. I know that he bought lands for the church, and money was placed into his hands by different members of the church with that objest in view.
552 Q-How do you know that? A-I don't know that he bought any for himself at all.
553 Q-How do you know that money was paid into his hands for the church A-Well so far as seeing it is concerned I do not know,only so far as my father is concerned, and I know he paid him money for that purpose,-
554 Q-Do you know he did not buy any land for himself? A-No sir, I wouldn't say that he did not buy any land for himself.
555 Q-Was he an honest man? A-Well we always took him to be, and I believe he was.
556 Q-Well, if he was an honest man, and bought land for the church, would he buy that land in his own name? A-
Cousel for the plaintiff objects to the question asked the witness on the ground that it calls for an opimion of the witness.
A-What is the question?
557 Q-If he was an honest man and buying lands for the church, would he buy that land in his own name? Would he buy land in his own name with the money of the church? A-Well he would not unless there was some consideration or understanding about it with those who gave him authority, but he might do it in pursuance of an understanding he had with the authorities that gave him the appointment to purchase these lands.
558 Q-Well can you give any reason as to why he should be taking the title to land that he bought for the church in his own name in that way? A-Well no, none other than that just at that time when he was buying the land it was not ready,- there was no ready method of getting knowledge back and forth between points far removed as it is now,- from Kirtland Ohio, where the President was, and I have known them to do somethings in haste when they had to

wait for further information, and under these circumstances he might have bought land in his own name, waiting for the time being for information from the President of the church, who at that time was living at Kirtland Ohio,- then he would dispose of it and make a title to whereever he directed.

559 Q-You say these were the reasons? A-No sir, I do not say that, I say that possibly here was some cause like that that made hi take the title in his own name, and the land may have been entered in his name for the reason that at that time under the law a church could not enter it or take title. I am of the opinion that there was a good and valid reason for Bishop Partridge acting as he did in that matter, but I don't know what it was.

560 Q-You say you saw your father giving money to Partridge? A-Yes sir

561 Q-How much did he give him? A-I could not say now how mush he did give him, for I don't remember the amount.

562 Q-Well was it as much as a dollar? A-Yes sir.

563 Q-Was it more than that? A-Yes sir.At one time he must have given him as much as twenty dollars or such a matter, and at another time he gave him perhaps as much more. He gave him more or less than twenty dollars on two different occasions.

564 Q-What time was that,- what date? A-That was in 1832.

565 Q-In 1832 you saw your father give Bishop Partridge money? A-Yes sir.

566 Q-Do you know what time in the year it was ~~in was~~ in 1832 that he gave him this money? A-What time in the year was it?

567 Q-Yes sir? A-Well it was in the latter part of the year.

568 Q-Do you know what he told him to do with it? A-No sir.

569 Q-Do you not remember any thing about what your father told him to do with the money when he gave it to him? A-No sir, I don't remember any thing further about it than I have stated.

570 Q-How old were you then, A-In 1832?

571 Q-Yes sir? A-I was eleven years of age.

572 Q-Don't you remember anything about the directions your father gave to Partridge about the money? A-Well he gave it to him for the purpose of buying land.

575 Q-Well can you state here what your father told Partridge? A-Well he told him that was for the use of buying land for the homeless Saints.

574 Q-You remember that? A-Yes sir, that much of it I do remember.

575 Q-And you are sure you remember that much of it? A-Yes sir.

576 Q-Do you know what he did with that money? A-No sir.

577 Q-I will hand you Exhibit "J" entitled "Book of Doctrine and Covenents" of the Church of Jesus Christ of Latter Day Saints, carefully selected from the revelations of God, and given in the order of their dates Lamoni Iowa, printed by the Board of Publication of the Re-organized Church of Latter Day Saints 1880" and ask you to read on page two-hundred and seven, commencing, at section one-hundred and two, paragraph seven and read to paragraph ten?

Counsel for the plaintiff objects to the question asked the witness on the groung and for the reason that it is immeterial, and not proper cross examination or recro ss examination.

A-Where shall I read?

578 Q-Commencing at paragraph seven and reading over on the next page to paragraph ten, inclusive? A-(the paragrapg referred to is on page two-hundred and eighty seven of Exhibit "J")" And let all my people who dwell in the regions round about, ~~and~~ be very faithful and prayerful,

humble before me, and reveal not the things which I have revealed unto them, until it is wisdom in me that they should be revealed. Talk not judgement, neither boast of faith nor of mighty works, but carefull gather together, as much in one region as can be consistently with the feelings of the people; and behold I will give unto you favor and grace in their eyes that you may rest in peace and sayety, while you are saying unto the people, execute goverment and judgement and justice for us according to law, and redress us of our ~~xins~~ wrongs.

Now behold I say unto you my friends in this way you may find favor in the eyes of my people, until the army of Israel becomes very great; and I will soften the hearts of the people, as I did the heart of Pharaoh, from time to time, until my servant Burak Ale, and Baneemy, whom I have appointed shall have time to gather up the strength of my house and to have sent wise men to fulfill that which I have commanded concerning the purchase of all the lands in Jackson County, that can be purchased, and in adjoining counties round about; for it is my will that these lands should be purchased and after they are purchased ~~I will hold them~~ that my saints should possess them according to the laws of consecration which I have given; and after these lands are purchased I will hold the armies of Israel guiltless in taking possession of their own lands, which they have previously purchased with their money, and of throwing down the towers of mine enemies that may be upon them, and scattering their watchman, and avenging me of mine enemies, unto the third and fourth generation of them that hate me.

But firstly let my army become very great, and let it be very sanctified before me that it may become fair as the sun and clear as the moon, and that her banners may be terrible unto all nations; that the kingdoms of this world may be constrained to acknowledge that the Kingdom of Zion is in every deed the Kingdom of our God and his Christ; therefore, let us become subject unto her laws.

Verily I say unto you it is expedient in me that the first Elders of my church should receive their endowment from on high, in my house, which I have commanded to be built unto my name in the land of Kirtland; and let those commandments which I have given concerning Zion and her law be excuted and fulfilled after her redemption. There has been a day of calling, but the time has come for a day of choosing; and that those be chosen that are worthy, and it shall be manifest unto my servants by the voice of the Spirit, those that are chosen, and they shall be sanctified; and inasmuch as they follow the council which they receive, they shall have power after many days to accomplish all things pertaining to Zion".

Counsel for the plaitiff moves the court to exclude the answer of the witness, on the ground that it is irrelevant immaterial and not proper cross examination.

579 Q-Now will you turn back to page two-hundred and eighty-five of the same book? A-Yes sir, that is the beginning of the section or revelation.

580 Q-The beginning of the section you have just read is on page two hundred and eighty five of the same book? A-Yes sir, that is the beginning of the

581 Q-Now will you read the date of that revelation? A-"Revelation given on Fishing River Missouri., June the 22nd, 1834." That is all you want me to read?

582 Q-Yes sir? Is it not a fact, or do you state it as a afct here in your testimony that portions of the Mormon belief,- using that phrase,- I should say portion of the Mormon people who were here in '31, '32, and '33 were not familiar with all the doctrine of

the church, and that a portion of the Mormon Belief was kept from the public generally?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is immeterial and incompetent and not cross-examination.

A-I don't know that any of their modes of operations or purposes in that regard were kept concealed.I do not know that that was kept concealed.

583 Q-well I ask you if any of their purposes were kept concealed,- t that is what I meant to ask you? A-I do not know that they were.

584 Q-Do you know whether any of their revelations were kept concealed,- from the public at that time or any other time? ~~A~~

Counsel for the plaitiff objects to the question asked the witness for the reason above set forth.

A-I do not know that they were. I don't believe ~~that~~ they were concealed ,or they were generally published in the paper that was published here, as fast as they were received.

585 Q-Do you know whether any other land was obtained by the church, or by any of its members in this county, at or about that time A-There was individual members of the church bought land for themselves here in this country at that time.

586 Q-At that time? A-Yes sir.

587 Q-And in other counties also in the neighborhood here? A-Well as I understood it, it was in this county,- Jackson County.

588 Q-Did they not do the same in Clay and Caldwell Counties? A-Yes sir but that was later on. They bought up piles of land in Caldwell county, but they had to leave it afterwards.

589 Q-They bought land in Caldwell County after this revelation you have just read a portion of, was given in 1834? A-Yes sir.

591 Q-And in Clay and Daviess counties also? A-I do not know anything about how much land they bought in Clay and Daviess Counties, but I know they bought up a large quanity of land in Caldwell County, but besides that County and this I don't know know how much they bought.

591 Q-Do you know anything about any organization or institution ~~xxx~~ of any kind, called Zion's Camp? A-"Zion's" what?

592 Q-Zion's Camp,- in 1830 or '34 or about those dates ? A-I do not.

Witness fees amounting to three days attendance $1.50 per diem,- $4.50 in aggregate, paid by plaintiff.

John W. Brackenbury, of lawful age, being sworn on the part of the plaintiff testified as follows,-

Re-called for direct examination by Mr. Traber,-

By Mr. Southern,- I enter an objection to the testimony of this witness he having already been on the witness stand and testified on the 30th day of January 1892, and was examined on direct, cross examined, examined in re-direct and re-cross examined, and then discharged, and for that reason objection is entered against the said witness ~~xxx~~ testifying again in this case; and as a further ground of objection, we object for the reason that the witness has been in the room during the examination of other witnesses in violation of the rule excluding witnesses from the room while other witnesses were on the witness stand".

By Mr. E.L. Kelley,- "At the time announced as being through with the examination of Mr. Brackenbury when he was on the stand before, and we announced that we were through with him with the exception of the matter that we were not going to examine him upon,and I will say further

that what we propose to examine Mr. Brackenbury on now is mat ter that none of the witnessess that have been examined here have been asked to testify anything about.

By Mr. Traber,-

I Q-Mr. Brackenbury state your name, age and place of residence? A-My name is John W. Brackenbury, and I was born in I829 on the I2th day of August in Ohio.

2 Q-How long did you live in Ohio? A-Well I ~~xxx~~ can't say postively how long it was.

3 Q-Did you ever live in Missouri A-Yes sir.

4 Q-When? A-I think we came here in the spring of I852. My mother came here then I think, and I with ~~xxxxx~~ her,- any how I was here in '53.

5 Q-Can you remember that? A-Yes sir.

6 Q-You were four years them? A-I was three years old,- in my fourth year, and I can remember going to school when I was three years old.

7 Q-Did you live here in Jackson County? A-Yes sir.

8 Q-What part of Jackson County did you live in? A-My mother had ten acres of land upon the Big Blue.

9 Q-How far from Independence was that? A-Well it must have been seven or eight miles. Well I dont remember just how far it was that is I cannot state just exactly how far it was, but it was up in what was called the Whitmer Settlement.

I0 Q-It was in the Whitmer Settlement, or what was called that? A-Yes sir

II Q-How long did you reside in Missouri from that time on? A-Well my mother went out when the drive was in November I833.

I2 Q-Did you go with her? A-Yes sir.

I3 Q-Well to what place did you go? A-We went across the river down here at what is now called Wayne City, and we crossed over in the bottom and camped there by a big sycamore log, and stayed there all winter.

I4 Q-Have you any recollection of the circumstances under which you left;- you and your mother? A-Well I remember my mother taking three of us children,- there was three boys,- she had four boys but the pldest one was not at home, and I remember her taking us three up to, in sight, to a mans house by the name of Joshua Lewis.

I5 QThat was where? A-That was as near as I can remember about three hundred or four hundred yards from our house, yet it was in sight of it.

I6 Q-From where you lived on the Blue? A-Yes sir.

I7 Q-Did your father reside here at that time? A-My father died in York state before we came our here, when I was between one and well when I was about two years old, and I don't remember him at all. We lived in Ohio at the time but he was over in New York state at the time he died, so he died away from home.

I8 Q-Did you know at the time you left Jackson County, the occasion of your leaving? A-No sir, not at the time mother took us up to Mr. Lewis's, but I know this much,- I know that that day while we were there it was in the after noon, I remember that because of the fact that it was not long until they took us out, and while we were there a man by the name of Philo Dibble came to the house,- I don't think he had a middle name and I remember him because he lived just across the road from us,- I knew him and his wife I remember them distinctly,- well he came to the house and I remember seeing his powder-horn,and the bullet wound right through the powder horn, and the splinters were sticking in his side.

18 Q-Who was that,- what was his name did you say? A-Philo Dibble, was the mans name. He was the man I said lived right across the road from where my mother lived, and he was the man who was wounded.

20 Q-Well now what did he belong to? A-He belonged to the church, The Latter Day Saints Church, and so did Mr. Lewis. I remember the circumstances and it made a very powerful impression on my mind for child as I was,- an infant, yet I remember his looking so white, and they took him upstairs. It was a long house, but there was an upstairs to it, so they took him up there, and just before night he was brought down, or came down himself,- any way he got down, and went off, and then night came, and it was not long,- almost right away after that mother took us out in the corn field and so did Mrs. Lewis and her children, for there was no men around. There was no men there when Philo Dibble came there either, and we stayed there in the corn-field all night, and in the morning when we came back to the house I remember that the house was torn down to the eaves, and the rafters was all off it, and I remember going into the house, and there was a table sitting in the middle of the room, and a big large pan of honey setting on it, and I remember seeing the dust on the honey. That is another of the things I remember very vividly. Well then they took us away from there off into the woods to a school house, and there was the women and the children and some old men, or an old man there, but I don't remember who the old man was but he was there,- any way they stayed there all day, and there was quite a crowd there in that school house. It was a new school house, for at that time when they would built a house with logs as most all of them were built that way they would chink it up, and mud it, but there was no chinking in this, and it had a puncheon floor made out of split logs, hewed on one side, and the benches were the same. I remember that, and the women and the children and the old man were there all day crying and in great distress. Well from there it was a blank until we went to the river, for I don't know where we went from there but I know we got to the river, for I remember seeing the river and crossing it and going over in the bottoms and camping by a big log, and we stayed there all winter by that big sycamore log, and from that we moved over to Arthurs Mill about three miles from Liberty.

21 Q-Can you state from your recollection anything about the number of people that were with you at that time? A-No sir, I have no recollection, so I could not tell you.

22 Q-Well then where did you go? A-Well I say they moved out the next spring and went up about Arthurs Mill about three miles from Liberty,- I think the name of the man that run it was Michael Arthur.

23 Q-was that in Clay County? A-Yes sir, about three miles from Liberty. It was there in Clay County on a creek called Shoal Creek, I think.

24 QHow long did you remain there? A-Well it was over a year.

25 Q-Then where did you go? A-I think we went from there to Far West.

26 Q-From there where? A-From there we went to Davless County.

27 Q-Davless County, Missouri? A-Yes sir. We remained then in Davless County until the trouble came up again.

28 Q-You remained there until the trouble came up again? A-Yes sir, a and I remember something about that trouble.

29 Q-Do you remember what year that trouble was in? A-Well I am not positive about the year that we went there, but I remember positively about the year we left there. I was pretty young when we went there and I can't remember the year, but I was older when we left and so I can remember positively the year that we did leave. We left there and went over to Quincy, Illinois and that was in '38.

30 Q-That was in 1838? A-Yes sir.

31 Q-You went to Quincy Illinois? A-Yes sir.

32 Q-What time in 1838 was that? A-That was in the latter part of the year,- in November I think. I think it was some time in November and pretty cold weather. and I remember that right well for I help to drive the cows, and it snowed and rained and we camped in the mud. I remember all these things that I am now detailing distinctly ~~exarything~~ for I was getting big enough by this time to remember everything that took place. Well we went from there to Quincy in 1838 and from there up to Nauvoo in '39.

33 Q-How long did you remain at Quincy? A-We went to Quincy late in t the fall of '38 and stayed there that winter until in the spring of '39 and then we moved on up to Nauvoo, and we stayed there until the time Brigham Young left for the West and we went with him as far as the Missouri river, but there we seen so much of their manner of doing business that mother left him, and we went back to Quincy and remained there.

34 Q-Do you remember any thing about the temple at Nauvoo? A-Oh yes sir,

35 Q-The temple was built there was it not? A-Well it was never finally completed.

36 Q-First I will ask you what years you were there at Nauvoo,- from the time you first went there to Nauvoo how long did you remain? A-Well we went there sometime in the spring of 1839, and we remained there until sometime along in '46 I think it was when we left there. We left at the time of the hegria ~~fm~~ from Nauvoo.

37 Q-Did you leave there in '46 is that what you said? A-Yes sir.

38 Q-Were you back there any time subsequent to that? A-Yes sir, I was back there since that time. I went back to see Joseph.

39 Q-What time was that? A-I forget whether it was in '49 or '50.

40 Q-Was the temple finished? A-No sir, and when I went back there that time the temple was torn down.

41 Q-Do you know whether or not it was ever completed? A-When I was there it was not finished. I know that for I have been in it and over from top to bottom many a time and when left there in 1846 it was not finished, and the next time I was back the re after that it had been burned down,- struck by lightning ~~x~~ they said and burned.

42 Q-Was that in 1839? A-No sir, the time that I said that I saw it last when it was not completed, and before it was burned down was In 1846.

By Mr. Southern,- "I object to your going over all this again, for it is a matter that the witness has already testified to".

By Mr. E.L. Kelley,- "Well that is all. It appears that you have testified to all this hereto fore, and it is unnecessary to go over it all again~~m~~ so that is all we want of you Mr. Brackenbury."

By Mr. Southern,- "Just simply enter an objection Mr.Notary to all the testimony of this witness given at this time for the reason~~s~~ stated

at the beginning of his testimony , and motion to strike out the testimony of a witness for the same reason."

E.L. Kelley being sworn on the part of the plaintiff testified as follows,-

Direct examination by Mr.Traber,-

I Q-Before asking Mr. Kelley any questions, we desire to offer in evidence a certified copy of a warranty deed made by Jones H. Flourney, and Clara Flourney his wife to Edward Partridge dated the I9th day of December I83I, acknowledged on the I9th day of December I83I, and recorded in book "B", page one,of the records for deed of Jackson County,-Missouri,- filed for record on the I9th day of December I83I, and recorded on the 24th day of May I832, conveying land, of which the property in question in this suit is a part. Before formally offering this deed in evidence I desire to ask Mr..E.L.Kelley the Bishop of the Re-organized Church of Jesus Christ of Latter Day Saints, the plaintiff in this actions some questions.

By what authority do you hold that position Mr. Kelley,-that is the position of Bishop in the Re-organized Church of Jesus Christ of Latter Day Saints? A-By virtue of an election to the position.which I know hold by the society, and ordination to the office of Bishop in the regular way.

2 Q-What are the duties pertaining to that office? A-It is to look after the temporalities of the church,- its properties and the support of its ministry and the poor of the church.

3 Q-Where is the place of your headquarters? A-At Lamoni Iowa. I would say that all this is really in evidence in ~~this~~ former examination of mine.

4 Q-I believe it is. Well I will ask you what is the extent of your jurisdiction with reference to the care of the properties of the church? A-It is where ever the church has property or properties in all the states.

5 Q-In all the states? A-Yes sir,

6 Q-Do you mean by ~~all~~ that all the United States? A-Yes sir.

7 Q-Does it go beyond the United States? A-Yes sir,where ever we have property in all the world

8 Q-Where ever you have property,-any where in the world? A-Yes sir.

9 Q-Does the church own property? A-Yes sir.

I0 Q-What is the character of that property? A-Real estate and personal property.

II Q-In what way is the title to the realestate and personal property held? A-By virtue of or under the articles of in incorporation,-the deeds usually run ~~under their~~ directed to the corporation,- that is the name of the society.

I2 Q-The name of the society? A-Yes sir, for there is certain states requiring trustees, where the deeds run to the Bishop as the trustees, and others where it requires local trustees, local trustees are mentioned in connection with the Bishop.

I3 Q-Then where the property is not held directly in the name of the church, if I under stand you correctly, it is held in the name of an individual as trustee? A-Yes sir.

I4 Q-Is it ever held in the name of any other individual excepting the bishop? A-He is the one that properly holds it.

I5 Q-Is all the property of this church,- is the title I say to all the property in this church vested either in the church directly

as a corporate body, or in you as its trustee? A-Yes sir, with the exception I have stated ~~xur~~ of a few church buildings ~~t~~ that are held in some of the states under the law which requires local trustees.

I6 Q-In what way is the property belonging to the church in this state held? A-The property in this state is held by the church in its corporate name. All that I remember of at the present time is so held. There might possibly be a few pieces of property that are not in the bishop, but I do not recall any such instances now.

I7 Q-Now you claim title to the property in question in this suit? A-Yes sir.

I8 Q-Now state in what way that is held? A-It is held by deeds conveying it to the church in its corporate name. I think the name of the Bishop,-Bishop Blakeslee was the bishop at the time of the conveyance, but I think the name of the bishop is not used. However that may be if I am in error I can quickly rectify it, for I have the original deed in my pocket, and I can soon tell you how it is if you desire to know.

I9 Q-You have the original deed you say? A-Yes sir.

20 Q-Did you hear me discribe the deed which I propose to offer in evidence in this case? A-Yes sir.

21 Q-I had you that deed and ask you now, whether you as bishop or as the proper officer of the church have the original of which that purports to be a copy? A-No sir, Ihave not.

22 Q-Have you ever had it? A-No sir.

23 Q-Has the church ever had it? A-No sir, not to my knowledge.

24 Q-Is it in your power or under your control any way? A-No sir, it is not.

25 Q-I mean in the power or under the control of the complainant in this case? A-No sir. not to my knowledge. To my knowledge it is not and I will state in connection with ~~this~~, that, as Bishop and trustee I hold all the deeds belonging to the society, and all legal papers of every discription, and it is not amongst them.

26 Q-I know offer the deed in evidence?

The deed above referred to, offered in evidence and marked Exhibit 20 J.M. Orr" is in words and figures as follows,- to wit,-

"To all the people to whom these presents shall come, greeting know ye that Jones H. Flourney and Clara Flourney, wife of the said Jones of the county of Jackson and the state of Missouri for the consideration of one-hundred and thirty dollard, received to our full satisfaction of Edward Partridge of the county and state aforesaid, ~~---~~do Give, Grant, Bargain, Sell and Confirm to the said Edward Partridge, the following ~~xxxxx~~ discribed piece or parcel of ~~xxxxxxx~~ land; being a part of the south east quarter of Section Three in Township Number forty nine of Range No Thirty five in the aforesaid county, bounded and discribed as follows,- to wit, Commencing on the South line of ~~said~~ quarter section forty poles from the South east corner of said quarter section at the corner of a certain ~~xxxxx~~ piece of land sold by said Flourney and wife to one Lewis Jones, and from thence running west one-hundred and twenty to the south west corner of said ~~xxx~~ quarter section. Thence north sixteen poles and ten links, thence north forty degrees, East ~~fourteen~~ ten poles, thence North twenty one degrees, East fourteen poles, thence north thence north fifteen degrees, East twenty poles, thence fouty-two degrees E East thirty four poles, thence North fifty five degrees, east thirty ~~four~~ poles, thence north sixty four degrees East forty poles, thence north seventy degrees, East seventeen poles and fifteen ~~poles~~ links to the corner of a certain tract of land sold by Flourney& wife to one G.M. Hensley

south on-hundred and twenty two poles and seventeen links to the place of beginning counting sixty-three acres and forty one-hundred and sixtieths of an acre, be the same more or less. To have and to hold the above granted and bargained premises with all and singular the rights and privilodges thereunto in any wise belonging and apper taining unto him the said Edward Partridge, his heirs and assigns for ever, to his and their own proper use and behoof. And also we the said Jones H. Flourney and Clara Flourney, wife of the said Jones as aforesaid , for ourselves, our heirs and assigns, covenant to the said Edward Partridge, with his heirs and assigns, that at and until the en-sealing of these presents we are well seized of the premises as a good indefeasable and have good right to bargain and sell the same in manner and form as above written and that the same is free from all incumderances whatsoever, and further we the said Jones H. Flourney and Clara Flourney, wife od the said Jones as aforesaid, do by these presents bind ourselves, our heirs and assigns, for ever, to warrant and defend the above granted and bargained premises to him, the said Edward Partridge, his heirs and assigns, against all lawful claims and demands what-soever.

In witness thereof we have hereunto set our hands and affixed our seals the I9th day of December in the year of our Lord I83I.

Jones H. Flourney. Seal.
Clara Flourney, Seal.

State of Missouri)
)ss
County of Jackson)

Be it remembered that on this I9th day of December in the year of our Lord I83I before the under signed deputy for Samuel C. Owens, Clerk of the Circuit Court for the aforesaid county, personally ~~known~~ came Jones H. Flourney and Clara Flourney both personally known to the said undersigned, to be the persons ~~who~~ whose names are subscribed to the foregoing instrument of writing as having executed the same and acknowledged said instrument of writing to be their ~~xxx~~ act and deed for the purposes therein mentioned,- She the said Clara Flourney being by me first made acquainted with the contents thereof and examined seperate and apart from her husband, whether she excuted said deed and relinquishes her dower in the lands and tenements in said deed mentioned, freely voluntarily and without compulsion or undue influence of her said husband. acknowledged and declared that she executed said deed and relinquishes her dower in the lands and tenements in said deed mentioned freely, voluntarily and without compulsion or undue influence of her said husband, taken and certified under my hand and the private seal of Samuel C. Owens Clerk of the said Circuit court, there being no official seal at said office the day and year above written.
(SEAL)

Russel Hicks.
Deputy for Samuel, C. Owens.
Clerk C.C.J.C.

State of Missouri)
)Set
County of Jackson)

I, Samuel C. Owens, Clerk of the Circuit Court, and ex-officio recorder within and for the ~~aforesaid~~ said county, do hereby certify that the foregoing deed of bargain and sale from Flourney to Partridge was filed in my office for record on the I9th day of December I83I

-ded in my said office on the 24th day of May 1832 in Book B, page L,

Samuel C. Owens,
Clerk.

State of Missouri)
)sss
County of Jackson)

I.R.T.Hinde, Recorder of deeds, within and for said county of Jackson and state of Missouri, do hereby certify that the foregoing is a full true and complete transcript of the record of the W.D.----------acknowledgement---------- and note of record thereon endorsed from Jones H.Flourney and wife to Edward Partridge, as the same now remins of record in my office in Indep Mo----------
Book No B, at page 1 and following.
Intestimony whereof I, have hereunto set my hand and affixed the seal of said office, ~~and~~ at my office in the city of Independence, in said county this IIth day of June A.D. 1887

R.T.Hinde. Recorder.

By W.R. Hall. Deputy.

W.R. Hall of lawful age being produced, and sworn and examined on the part of the plaintiff testified as follows,-
Direct examination by Mr. Traber,-

I Q-What is your name? A-W.R. Hall.
2 Q-What is your business? A- I am deputy recorder of deeds.
3 Q-Where at? A-At Independence here.
4 Q-In Jackson County, Missouri? A-Yes sir.
5 Q-I will hand you Exhibit 20, and ask you to state to the notary what that paper is A-Well it is a certified copy of the record of a deed from Jones H. Flourney and wife to Edward Partridge and conveys the south east quarter of section three, township forty-nine, range thirty-two.
6 Q-Is there any other discription besides that? A-It conveys a part of the south east quarter section three, forty-nine, thirty-two, bounded and discribed as follows,- " Commencing on the south line of said quarter section forty poles from the south east corner of said quarter section at the corner of a certain piece of land sold by xxx the said Flourney& wife to one Lewis Jones, and from thence running west one hundred and twenty to the south west corner of said quarter section, xxx thence north sixteen poles and ten links, thence north forty degrees, east ten poles, thence north twenty-one degrees, east fourteen poles, thence north fifteen degrees, east twenty poles thence north forty- two degrees, east thirty four poles thence north fifty five degrees east thirty poles thence north sixty four degrees East forty poles, thence north seventy xxxx degrees east seventeen poles and fifteen links to the corner of a certain tract of land sold by said Flourney &wife to one G. M. Hensley, and from thence due north one hundred and xxxxxxxx twenty two poles and seventeen links to the place of beginning, containing sixty three acres and forty three one hundred and sixtieths of an acre be the same more or less". That is the wat the discription reads here.
7 Q-Give the date of that instrument? A-It is dated the I9th day of December I83I, and it was acknowledged on the same day by,-
8 Q-Well it don't make any difference about that,- Now where was it recorded? A-In book B, page 1, and following pages.
9 Q-Did you make that certified copy? A-Yes sir.

Q-Is that your name signed to it there, as deputy recorder? A-Yes-sir.
By Mr. Southern,- "Are you through with the witness so far as that deed is concerned?"
By Mr. Traber,-"Yes sir."
Cross-examination by Mr. Southern,-
Q-How old are you Mr. Hall? A-I am twenty-four years old.
Q-How long have you been acting as an officer in the recorders office? ~~xx~~ in the capacity of Deputy Recorder? A-It was,-Do you mean as deputy under this recorder? ~~xx~~
Q-Under any recorder? A-It was some time in 1886 that I was appointed.
Q-you were appointed deputy recorder some time in 1886? A-Yes sir. Some time in 1886 I was appointed deputy recorder.
Q-Prior to that time what was your business? A- I was a clerk in the office.
Q-How long prior to that were you a clerk in the recorders office? A-About six months.
Q-Prior to that time what was your business? A-Well I didn't have any,-
Counsel for the plaitiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial.
A-I was attending school up to that time.
Q-You had never been in the recorders office as a clerk or a deputy up to that time? A-No sir.
Q-That is all .
E.L. Kelley resuming the witness stand, testified as follows,-
Direct examination by Mr. Traber,-
"I desire to offer the deed marked Exhibit 20 in evidence at this point and have it attached to the evidence or record as a part of the evidence of Mr. Kelley,-
(The deed marked Exhibit 20, is the instrument a true copy of which is set forth on pages 553 and 554)
By Mr. Southern,-
Q-You testified that you were the bishop of ~~xxx~~ a church ~~x xxx~~ Mr. Kelley I believe? A-Yes sir.
Q-What church? A- I am the bishop of the Re-organized Church of Jesus Christ of Latter Day Saints, that is the name of the church of which I am a bishop.
Q-Now are you the bishop of a co-operation entitled the Re-organized Church of Jesus Christ of Latter Day Saints? A- I am the bishop of the church of that name, and the church has been incorporated under the laws of the state of ~~Ohio~~. Iowa .
Q-Are you a bishop of a co-operation,- yes or no will answer that question? A-I am a bishop of the church.
Q-Well I would like you to answer the question as to whether you are the bishop of a co-operation? A-I have stated the facts. I have told you what office I occupy, and you asking me for a conclusion. I simply state the facts to you and you can draw your own conclusion.
Q-So you want the notary there to note that you refuse to answer yer or no to that question I have asked you. Is that the way you want your answer to be recorded? A-I want my answer to be recorded that I state the facts but I an not here to give my conclusion as I under stand it.

7 Q-Well I must again request you to answe the question as to wheth-
er or not you are the bishop of a corporation entitled "The
Re-organized Church of Jesus Christ of Latter Day Saints". Now
you either are or are not, and I ask for an answer to that
question? What is your answer to that question? A-I am will-
ing to answer just what I am. I have no objection to stating
the facts, and that is what I am doing, and I have dome in
this instance. I am willing to answer any question you may put
to me by giving you the facts in connection with the question
if it is my duty to do so.

8 Q-Well I have asked you that question, and I want you to answer it
A-My position is that of the Presiding Bishop of the "Re-organ
ized church of Jesus Christ of Latter Day Sainrs," and the church
as a society was incorporated after I became its presiding
Bishop in this manner under the operation of the laws of the
state of Iowa.

9 Q-Now then I will ask you the question again,-I repeat the question
to you,-Are you the Bishop of a co-operation? A- I am bishop
of the church, and the church is duly incorporated under the
laws of the state of Iowa? And if that makes me the bishop
of a co-operation, then I am the bishop of a co-operation.

I0 Q-And if it does not make you the bishop of a co-operation, then y
you are not the bishop of a co-operation? A-No sir, if it does
not then I am not the bishop of a co-operation.

II Q-Are you an agent of that co-operation any way? A-I do the busine
ess for the church and the church is incorporated, and as
such you might call me the agent of the inco-operation.

I2 Q-Has the co-operation the necessary officers as is provided for
in its articles of inco-operation? A-Yes sir, the church of
ficers are its officers.

I3 Q-The church officers? A-Yes sir, and no others.

I4 Q- Are all the church officers the officers of that inco-opera-
tion? A-Just those that are mentioned in the articles of inco-
operation, and provided for by the laws and regulations of
the church which is inco-operated.

I5 Q-Has that inco-operation a ~~xxxxxxxxxxxxxx~~ President and Secretary
and directors?

By Mr. P.P. Kelley,- "That is objected to for the reason that the
same cross-examination of this witness was made two months
ago at the time he was first on the witness stand and an ex-
amination of the record will so show it to be the fact".

By Mr, Southern,-

I6 Q-Has that corporation directors and officers? A-Not outside of the
church officers.

I7 Q-Has it any of the directors and officers specified in the artic-
les of incorporation and the law regulating such incorporatio-
ns? A-It has those that are specified in the articles of
incorporation.

I8 Q-Are those that are specified in the articles of incorporation,
the officers who are entitled to do the business of the incor
poration? A-It has so far as is stated in the articles ofin
corporation.

Counsel for the ~~xx~~ plaintiff objects to all this line of examina-
tion as being immaterial and incompetent, and not cross exam-
ination and the best evidence.

I9 Q-When did that copy purporting to be a copy of a deed come into
your possession, if it ever came into your possession? A-It
came into my possession I think it was the same days it was
made.

here in Independence, and that was on the IIth day of June I887, and it has been in my possession ever since. I was then acting agent for the church in a different capacity how ever, but I came into possession of the paper at that time, and have retained its custody ever since.

20 Q-You were not the Bishop of the church at that time then? A-No sir, at that time I was not Bishop of the church.

21 Q-What do you call in your church techniology or phraseology, for instance, the congreation of Independence,- I might make the question generally by saying at any other particular spot or point? A-They are usually called,-

22 Q-What do you call these local congreations in church techniology? A-Sometimes they are called local church, and somtimes they are called branches of the church.

23 Q-Sometimes branches of the church? A-Yes sir.

24 Q-And there are how many branches of the church? A-Of such churches,-

25 Q-Of such churches how many branches are there? A-I could not state how many there is of my own knowledge without referring to the records.

26 Q-Well about how many is there? A-I know about how many there is generally.

27 Q-Well about how many is there? A-There is about four-hundred in the United States.

28 Q-Well can you give approximate idea about how many there is in the world? A-I could state approximately about how many there are. I think in the Canadas I could tell about how many there are but I dont know with reference to Australia or the Society of the Sandwich Islands or Europe either.

29 Q- Well in Canada is there about? A-I think in the Canadas there is about twenty or twenty five branches. that is my impression but personally I am not in a position to tell you the number Colonel with any great degree of accuracy.

30 Q-How does the title of the property of the local branches of the church in Canada, vest in you as the Bishop of the church? A-It is held there in part by local trustees, and my instructions has been to the officers there in deeding property to have it deeded directly to the church in its corporate name. We claim we could and can hold it by the law of comity between the two countries in its corporate name.

31 Q-Is the property of the local congregation here, which is said in your bill to have seven hundred members,- seven-hundred or more communicants I believe, but I dont know that that is the exact phraseology that you use,- Is the church property here in your name? A-The local church here?

32 Q-Yes sir? A-The church building ~~ect~~ etc?

33 Q-Yes sir? A-I would not say for certain. I know it is not in my name, but it may be in the name of the former Bishop of the church, for it was deeded at the time that E.A. Blakeslee of Galien,Michigan was the Bishop of the church, and it is possible that it is in his name but I think it is in the name of the corporation,- the Re-organized Church of Jesus Christ of Latter Day Saints. Now that is my best recollection of it but if you wish to know definately you can assertain the fact by examining the records.

34 Q-Is the title of the four-hundred,- of all the four hundred branches in the United States in the name of who is or who was the

bishop of the church,-who is the bishop of the church at the present time I will say? A-Well the titles to a number of the local churches run to Israel L. Rogers, as the trustees and bishop, when he was the bishop of the church, That was for some of them before the society was ever incorporated, and after the appointment of Bishop Blakeslee, some some of the deeds run to him as bishop and trustee, and some were directed to the church in its corporate name. and so it has been since my appointment.

35 Q-And some in other ways? A-There is none ~~have~~ illegally held in any other way at all.

36 Q-There is not? A-Not that I know of.

37 Q-Now when you hold the title of the property of any of these branches,- there is four-hundred of them you say? A-Yes sir, some thing like that. 38 Q—for whose benefit do you hold it? A-In what way,—

39 Q-Do you hold it for the benefit of that particular branch, or for the benefit of the whole church? A-There is special regulations of the church with reference to that. It is held for the use and benefit of the society, so long as the society holds together, I mean by that the local society, and so long as it is in harmony with the laws of the church, and acts in harmony with the church as a whole. If it should happen that the local society for any reason or from any cause, should depart from the church, or should become dis-organized from any cause or reason, the general society would not lose its ~~xxxxxx~~ interest in the property. All this property is brought to gether, and obtained by the use of the money of the church and there is where the interest of the general church comes in.

~~40 Q-In what manner? A-Often the local church I mean to say that often the general church aids these societies in building, loans them money or aids them in various ways.~~

40 Q-Does the general church have any interest in the property of a local branch, except for the benefit of that local branch? A-Oh yes sir.

41 Q-In what manner? A-Often the local church, I mean to say that often the general church aids these societies in building,- ~~xxxx~~ loans them money or aids them in various ways.

42 Q- When the general church loans them money does it loan them the money in trust to be repaid by the local branch to which it is loaned? A-Well it is owing in a great measure to the circumstances surrounding the case.

43 Q-It is owing to the circumstances surroundings as to whether or not that money shall be repaid? A-Yes sir.

44 Q-Well does the power given to the trustee that holds the title to the property used by any branch, authoize him to sell or convert that property contrary to the wishes of the branch? A-He might sell it so far as that is concerened, if he did so without authority from the general church and contrary to the wishes of the branch, he would be liable to forfeit his office for so doing.

45 Q-Can he dispose of the property of a branch at all, without the consent of that branch? A-I think it is possible he might.

46 Q-Possible he might? A-Yes sir. There has never been such a thing done I will say, and I do not think it is at all likely that it will ever be done.

47 Q-Is there any law authorizing him to dispose of the property of a branch the title of which is held by him in trust for the use and benefit of ~~that from the general church~~ that branch? A - It is held in trust for the use and benefit of the general church

48 Q-Well is there any authority authorizing, him to sell property so held? A-Nothing more than the laws of the

49 Q-Is there any law of the church particularly or generally giving him such power as that? A-Yes sir, there is simply what you find in the articles of incorporation already introduced in evidence in this case.

50 Q-Only the powers you say that are found in the articles of incorporation already introduced in evidence in this case? A-Yes sir.

51 Q-Can the authority of that incorporation,- the articles which have been introduced in this case, be invoked to transfer the property of a local branch without the consent of that branch? A-That has never been done.

52 Q-What is that you say? A-It never has been done.

53 Q-Can it be done?

Counsel for the plaintiff objects to the question asked the witness on the ground that it calls for a legal opinion of the witness.

A-I think it would be doubtful.

54 Q-You think it would be doubtful as to whether it could be done or not? A-It might be done, but whether it would be,- well possibly in some of the states it would be declared legal under the law, but whether it would be held to be legal and just by the society is another question.

55 Q-Is the corporation of which you speak, authorized to hold any property ~~xxxxx~~ other than that which holds for the use and and benefit of the various branches of which it is as a whole composed? A-The articles of incorporation show just what property it is authorized to hold. Now you are asking as for conclusions based upon facts and I do not think it is proper for me to state any conclusions. I state the facts and you can draw your own conclusions, and this last conclusion of mine that it is ~~xxx xx~~ proper for me to state ~~this last conclusion~~ only the fact I think you will find upon the trial, that it is a conclusion in which the court will sustain me.

56 Q-Well that may be. Now I will ask you if the general conference of the church as such, hold any property in cotra-distinction to the property of the local branches? A-Yes sir. Speaking of the general conference of the church generally it does.

57 Q-As the church generally it does? A-Yes sir. That is in the sence of holding property other than the church buildings.

If I under stand your question that is what you refer to?

58 Q-I mean any property, real estate or personal property? A-Yes sir other than the church buildings?

59 Q- I mean other than the buildings used for the church purposes by the various branches? A-Yes sir.

60 Q-Does the general conference or any authority authorized by it hold property unconnected with the local branches? A-Oh yes.

61 Q-That is the fact is it? A- Yes sir.

62 Q-Real property? A-Real and personal both.

63 Q-What does the general conference or any authority authorized by it, hold any real property for,- for what purpose does it hold any real property? A- For the use and benefit of the church.

64 Q-For the use and benefit of the church,- in what manner? A-generally.

65 Q-For the use and benefit of the general church? A-Yes sir.

66 Q-Then it dont hold it for a church building? A-Yes sir.

67 Q-How? A-Yes sir.

68 Q-Does the general church as you term it, represented by its general conference or any other authorized authority, have any church buildings? A-Yes sir.

68 Q-It does? A-Yes sir.

69

70 Q-Where? A-The building at Kirtland Ohio,-the temple building there at Kirtland is held by the general church, and it is the best and the most costly building held by the society in any way.

71 Q-Has it any other property or real estate so held? A-Yes sir.

72 Q-It has? A-Yes sir.

73 Q-Where? A-It holds one-hundred and sixty acres of land in Missouri up here.

74 Q-Where else does it hold any real estate? A-It holds the temple lot in question in this ~~state~~ case, and it holds several other lots here,- I do not remember the number, but it holds one lot just north of the temple lot in question here in Independence, and in a good many other places it holds property. It holds a block in the center of San Bernardino California, and it holds two lots in pomona California.

75 Q-For what use does it hold the property so held? A-What is that?

76 Q-For what use does it hold, or assume to hold the property of which you have spoken? A-It holds it for the use and the benefit of the Re-organized Church of Jesus Christ of Latter Day Saints, and it is so stated in the deeds.

77 Q-For church edifices,- does it hold it for church edifices? A-It holds it for any and every purpose or use the society may see fit to put it to.

78 Q-For speculation or anything else? A-Yes sir, for what ever it chooses to use it for,- for the use and benefit of the society generally.

79 Q-And the society is the church? A-Yes sir.

80 Q-Then it holds them for any purpose ~~to~~ which it desires or sees fit to devote them? A-Yes sir. Yes sir that is the fact but it is not expected that the church would go into speculation, and if the Bishop would go into that kind of business he would be dismissed for he is not permitted to go into the speculative business.

81 Q-Now is whatever you do in reference, or with any of these properties approved by the corporation at Lomoni, the articles of which you introduce in ~~xxxx~~ in testimony in this case,- is what you do as Bishop of this church approved always by that incorporation? A-Yes sir.

82 Q-How is that done? A-The way that corporation approves is by or through the church which is incorporated.

83 Q-And is your action in any of these matters, as a matter of course approved by that incorporation? A-Oh no.

84 Q-Were they,-are they submitted to that incorporation? A-They are liable to be inquired into at any time, for the committees are appointed to examine my books and accounts and papers and reports, and I report all the real estate and personal property at each annual conference of the society.

85 Q- Do you report your work to this incorporation? A-I report it to the church.

86 Q-You report it to the church? A-Yes sir.

87 Q-Do you report it to this incorporation at Lamoni? A-Yes sir, for it is the church at Lamoni. The church at Lomoni is the incorporation, and it was duly incorporated in pursuance of the laws of the state of Iowa, and as such an incorporation I report to it by reporting to the church.

88 Q-You report it to the church at Lomoni? A-Yes sir.

-ters of the church and of the society into which the church was incorporated.

90 Q-You reported it to the church at Lamoni, and it is approved by it? A-Yes sir.

91 Q-It is from the church at Lomoni that you received your authority is it not? A-No sir, the church at Lamoni is the princple church in this incorporation, but this incorporation is n ot- her branches of the church at other places, and as the office having charge of these things I report to the general associ- ation of the church. I so reported this present month at the general conference which was held here in the city of Independence Missouri.

92 Q-Now as a matter of fact you are acting here in this case as a pe- presenative of the incorporation, the articles of which you have placed in evidence in this case or as the representative of something else? A-I am the representative of the church which is incorporated,- both the church and the incorporation which are one and the same thing,- if you want to make a dis- tinction you can do so, but I state to you the fact, but the laws of Iowa as I under stand them make no distinction.

93 Q-That is the way that is done? A-Yes sir, that is just the way.

94 Q-Well now I have another question to ask you and it is this,- in your proceedings here at this conference in the capacity in which you appeared did you represent the incorporation or the church? A-I did.

95 Q-you did, that? A-I represented the incorporated church.

96 Q-Does the possession of the muniments of title that you have in your possession in here in the incorporation? A-What is your question?

97 Q-I will frame it this way,- is the possession of the muniments of title by you, the possession of the incorporation at Lamoni? A-They are in my possession as an officer of the incorporation.

98 Q-And is your possession the possession of the incorporation? A-Yes sir.

99 Q-Then you are an officer of the incorporation? A- I have answered that question by saying I am the Bishop of the Re-organized Church of Jesus Christ of Latter Day Saints which is incor- porated ~~and~~ under and by virtue of the laws of the state of Iowa, and if that makes me an officer of the incorporation I am one.

100 Q-Do you observe the laws under which your church or society is incorporated? A-I believe we do. I have told you what we do, and it is for the court to decide that question.

101 Q-Well you say your possession of these muniments of title is the possession of the corporation? A-Yes sir.

102 Q-That is the way you regard it? A-Yes sir, that is the way I rega- rd it.

103 Q-Was the incorporation at Lamoni affected at the time you came in to the possession of this copy, or this paper purporting to be a copy of a deed? A-No sir.

104 Q-It was not? A-No sir, not in the state of Iowa, but at the time I came into the possession of this copy of the deed,it,- the society was incorporated under and by the virtue of the laws of the state of Illinois.

105 Q-Have you by any act of yours since the incorporation at Lamoni transferred the possession of this deed to that incorporation ?,- the possession of this purported copy of the deed to its possession?

A-To the possession of what?

106 Q-To the possession of this incorporation? A-No sir for the reason that the incorporation was transferred to Iowa,- the re-incorporation transferred me from the incorporation in Illinois to the corporation in Iowa, and I took this deed with me as a matter of course.

107 Q-Have you by any instrument of writing, or any formal act in the transfer of any of the papers that were in your hands at the time of the incorporation at Lamoni, of which you are speaking to that incorporation? A-To which corporation?

108 Q-The corporation at Lamoni, or rather the incorporation ~~thx~~there? A-I do not under stand your question,- there seems to be some thing wrong with it Colonel?

109 Q-I ask you if you ~~had~~ by any instrument of writing or by any formal act of yours, transferred any of the papers that were in your hands at the time of the incorporation of the society at Lamoni, to that incorporation? A-Well I under stand the question now,-

110 Q-Well I hope you do? A-I do not think,- well I was one of the parties incorporating at Lamoni, and we re-incorporated the society, and the effects belonging to the original incorporation, by that act of re-incorporation were duly made the effects of the incorporation at Lamoni.

111 Q-Was there ever any act of yours transferring to that incorporation any of the papers or muniments of title to real estate or ~~xxxxxxx~~ other wise to that incorporation at Lamoni,- that is the question to which I am trying to get an answer? A-No sir, and it was not necessary to do so under the laws of the state under which we incorporated. So far as the taking of the property out of the one hand and putting it into the other, so to speak, is concerned, that never was done.

112 Q-Has that incorporation any Secretary or Treasuer? A-The Bishop is the Treasuer of it. He is the Treasuer of the church and as such he is the Treasuer of the incorporation.

113 Q-Has it any Secretary? A-No sir, only the secretary of the church The church has a secretary and as the church is the society incorporated, he is of necessity the secretary of the incorporation.

114 Q-So there has never been any formal transfer by you of the property as Bishop to the incorporation? A-No sir.

Counsel for the ~~defendents~~ objects to the instrument of writing a certified copy of which is offered in evidence hereto fore and marked Exhibit 20, for the reason that it appears not to be in proper hands, and because it has not been in proper care and custody since it purports to have been executed.

By Mr. Traber,-

115 Q-Mr. Kelley, is there any body, or is there any person connected with the corporation which you have spoken of and with the church aside from yourself who would be entitled to the custody of the deed offered in evidence marked Exhibit 20? A-No sir.

W.R. Hall being recalled, testified as follows,-

Direct examination by Mr. P.P.Kelley,-

1 Q-You are the same party who was on the witness stand a few minutes ago, are you not? A-I am.

2 Q-You testified that you were the deputy recorder of this county? A- Yes sir I am here at Independence

3 Q-You are the deputy recorder here at Independence? A-Yes sir.
4 Q-I will ask you if you have here while your deposition is being taken, book one-hundred and forty six of the records of Jackson County, Missouri? A-I have.
5 Q-I will ask you to turn to page one hundred and thirty-nine of that record? A-Here it is.
6 Q-I wish you would read to the reporter the caption to that instrument? A-It is a quit claim deed from Elizabeth Ann Cowdery widow of Oliver Cowdery, ~~xxxxxxxx~~ deceased, to Marie Louise Johnson, and it is dated the 29th day of May 1886, recorded in book one-hundred and forty-six at page one-hundred and thirty-nine.
7 Q-What is the signature? A-It is signed Elizabeth Ann(her x mark) Cowdery, and attested by D. Havens and H.Howard.
8 Q-And before whom was it acknowledged and the date? A-It was acknowledged before D. Havens, Notary Public on the 29th day of May 1886.
9 Q-What is the date of the record? A-The 22nd day of June.
10 Q-I will ask you if that deed in the discription, contains this description of land?

Counsel for the defendents objects to the question asked the witness on the ground that it calls for an opinion of the witness who is not shown to be an expert in identifying a discription of lands.

11 Q-I will read this and see if you find in it that,-"being a part of the south east quarter section three, in township of range No 32 in the aforesaid County, ect?" A-No sir it reads this way,- "The west half of the north west one quarter of section thirty three, township forty-nine, and range thirtythree, west of the fifth principle meridian, and the north twelve acres of the, of the (the of the is repeated) east half of said north west one quarter sec., township and range, and the south fifty two acres of the aforesaid east half of section thirty three, township forty-nine, range thirty three; also a tract of eleven acres more or less in the north east quarter of the north west quarter of section twenty one, township forty-nine, range thirty three, west of fifth principle meridian described as follows,- to wit,- commencing one-hundred a and sixty poles west of the north east corner of said section thence sixteen poles and five links to stake in the Independence and Westport Road, thence south twentytwo degrees, west twelve poles and ten links, thence south forty seven degrees, west eight teen poles to stake in Westport Road near a spring, thence south eleven degrees, east forty poles and twenty two links, thence east twenty five poles, twenty-two links, thence north sixty-four poles and three links, to place of beginning, Also a tract of eighteen acres, two rods and fifteen poles in said section,21 township forty-nine range thirty three west of fifth principle meridian described as follows,- to wit,- commencing one-hundred and four poles and twenty two feet west of the north east corner of said sec. thence with nine degrees ~~xixx~~ variations south thirt teen degrees, west sixty five poles sixteen links, thence west forty poles two and one half link , thence north sixty four poles three links., thence east to place of beginning. And also a tract of about forty acres in the south east quarter of sec. three township forty-nine, range thirty two, west of fifth principle meridian commencing at a point forty rods west of the east line one-hundred and twenty-two rods north of the south line of said sec. thence south seventy degrees west seventeen poles fift teen links, thence south sixty four degrees, west forty poles, thence south fifty five degrees, west thirty poles, thence south forty two degrees, west thirty four poles, thence south fifteen degrees west twenty poles thence

east paralell with south section line to a point forty rods west of east section line, thence to place of beginning.

I2 Q-I want to ask you one other question Mr. Recorder,-have you not made an examination of the recorders office for this county for the original of the deed to which your attention has been called to day, or have you had it done? A-Yes sir, I have,- I know I have looked for it,

I3 Q-Did you find it? A-No sir I did not find it.

By Mr. Southern,-

I4 Q-In that examination did you find an entry showing who had it? A-Yes sir.

I5 Q-Well who has it? A-It was delivered to the Kansas City office.

I6 Q-It was delivered to the Kansas City office? A-Yes sir.

By Mr. P.P. Kelley,-"I am going to offer a certified copy of that record in evidence."

By Mr. Southern,-

I7 Q-You give the same testimony now with reference to your connection with the recorders office and previous occupations as you did when giving your prior testimony? A-Yes sir.

I8 Q-As you did when giving your former testimony when the instrument from Flourney and to Partridge, was offered in evidence? A-Yes sir.

~~I9~~ ~~Q~~

By Mr. P.P. Kelley,- " I will offer this record now Mr. Southern. (the record referred to was hereupon handed to the Notary and marked Exhibit "2I")

By Mr. Southern,- "Well the defendents object to the record offered in evidence because a ~~record~~ record of the character of the record shown here in evidence, is not competent testimony in this case, and because it has been shown in this case that the original deed is within the reach of the parties who desire to offer the record, and because scraps of a record of this kind do not indicate the character and nature of the instrument of a muniment of title to real estate, and because it has not been shown that the original deed was properly signed by the party purporting to sign it, or properly acknowledged in accordance with the law in that regard".

By Mr. P.P. Kelley,-"Let the record show right here, that in lieu of the copy of the deed that has been read being offered in evidence that plaintiff's counsel now asks the deputy recorder of deeds for Jackson County, Missouri, now on the witness stand, make a duly certified copy of the record in question and present it here to-morrow morning".

By Mr. Southern,-"To all of which the defendents object because it is not relevant or competent to any of the issues in this ~~case~~ case".

By Mr. P.P. Kelley,-

~~I9~~ Q-Will you do as requested Mr. Hall? A-Yes sir.

20 Q-Now I want to ask you one other question Mr. Recorder while you are on the witness stand. Look at the Exhibit No"2I" Mr. Witness and state whether or not you made that copy,-that certified copy? A-Yes sir I made this copy.

2I Q-Is the deed from Edward Partridge to Jane Cowdery ~~et~~ et al? A-Yes sir.

22 Q-What is the date of that Mr. Recorder? A-It was acknowledged on the 25th day of March I839.

23 Q-What was the date of the recording of the deed? A-7th of February I870.

24 Q-What is the date of the certifying of the copy? A-The IIth of June I887.

25 Q-I now offer this deed in evidence,-Exhibit 2I,- and will follow up the offer by showing that the plaintiff in this case has not the control or possession of the original?

By Mr. Southern,-

26 Q-I have a question or two to ask the witness first. Why did you not Mr. Recorder give the date of that deed when you were asked to give it? A-Why because I was looking for it in the body of the deed, but I did not find it there,-I found it in the acknowledgement to the deed.

27 Q-Well if there is no date to that deed, so state the fact, please? A-Well I did not know at the time whether or not that would be the date, but now the law is I under stand,-

28 Q-Well I am asking you about the date, and you need not tell us what the law is? A-Well I don't know then.

29 Q-Is there any date to the deed? A-Yes sir.

30 Q-There is? A-Yes sir, there is what I would call a date.

31 Q-Well what is it? A-The 25th of March I839.

32 Q-Is that the date to the deed part of the instrument? A-Yes sir, we consider it the date now.

33 Q-Well is it in fact the date to the deed part of the instrument? A-I don't know.

34 Q-What is it dated there? A-The acknowledgement is dated.

35 Q-Is there any other, other than that you find in the acknowledgement? A-I was trying to find another.-

36 Q-Well if you can find it do so, and so state the fact? A-No sir, I do not find any other date than this the 25th of March I839 and that is in the acknowledgement, but as I said before we under stand that to be the date of the instrument,- the date of its acknowledgement.

37 Q-Now is this not what you mean to say that there is a certificate appearing to the records of the deed that purports to be an acknowledgement, and that it is dated the 25th day of March I839,-Is that not all you state? A-Yes sir,that is all I state

38 Q-Does there appear from the copy you are looking at, to have been any seal? A-No sir, there is no seal to it.

39 Q-Is there any thing there to show that the partypurporting to have taken the acknowledgement was an officer? A-Yes sir.

40 Q-What is it? A-He states in the acknowledgement that he is a justice of the County Court.

41 Q-Does he say that? A-Yes sir.

42 Q-Does he sign himself so? A-No sir, he signs himself "J.C.C.C."

43 Q-He signs himself "J.C.C.C."? A-Yes sir.

44 Q-You say that is a deed? A-What is that question?

45 Q-Have you said in your testimony here that that is a deed? A-Yes sir, I said it was a deed.

46 Q-Now is this not what you mean,-it purports to be a copy of a deed It is a copy of what purports to be the record of a deed in the records of the Recorders Office of this county? A-Well we certify that it is a deed. I would certify that it it is a copy of the record of that deed from Edward Partridge to Jane Cowdery and others.

47 Q-You make that certificate? A-Yes sir.

48 Q-You do not pretend to say what sort of an instrument your-self? A-What is that?

49 Q-You do not pretend to say what sort of an instrument it is your self,do you? A-No sir, I do not pretend to say what sort of an instrument it is.

50 Q-You make the same statement hear now regarding your connection w with the Recorders office that you did on your prior examination, when the other instrument was produced to you? A-Yessir

55 Qz

"Of course the defendent objects to the paper offered in evidence, purporting to be a deed from Edward Partridge or Patridge to Jane Cowdery and others, for the reason here-to-fore given".

By Mr. P.P. Kelley,-

51 Q-I will ask you to give the book and page where those,- this deed is recorded (Exhibit 2I)? A-It is recorded in book.73,page 432 and following.

52 Q-On what date? A-The IIth of June I887.

53 Q-That is not the proper date,-it is the date of the recording I want? A-No sir, that is not right,- it was the date of the certificate attached to the copy that I gave you,-The date of the recording is the 7th of February I870.

"Let the record show Mr. Reporter that the plaintiffs offer the copy of the paper marked exhibit 2I, or rather which is a certificate copy of the deed from Edward Partridge to Jane Cowdery and others, first,-for the purpose of showing a conveyance of the legal title of the property and secondly,-for the purpose of showing the children of Oliver Cowdery and their names, so so far as the deed itself shows their ages".

By Mr. Southern,-"That is objected to, first,-because the paper offered in evidence does not purport to be a deed, but only the copy of a record of a deed,and secondly,-because there is nothing in the body of the paper purporting to be a copy of a record of a deed, showing definately anything that purports to be a conveyance of the property in question, and thirdly because the language of the paper shows it to be a true copy of the record, and the record be a true copy of the original paper, that it is not a deed as it purports to be fourthly,-because the paper offered in evidence does not purport to be, or to have been dated,- fifthly,- there is nothing given in testimony to show that the name attached to the paper was ever attached to an original deed, of which the paper purports to be a copy,-sixth,-because it has not been shown in testimony that the original paper, purporting to be a deed has been lost or destroyed, or is not within the reach of these plaintiffs".

By Mr.B.P. Kelley,- "Mr. Reporter just after that objection let the record show that plaintiffs counsel stated when he offered the deed that he would follow it up by showing that the original deed was not in his possession or under his control, and he would show that fact".

By Mr. Southern,-"I hardly think he can do that,- at any rate not now for I am in possession of the field and he can not do what he pleases after I get through,-I have some more objections to make,-seven that it purports to have been an acknowledgement of the original paper or deed as it appears in the copy, was not and is not a valid acknowledgement because not taken before a party authorized to take acknowledgements according to law prevailing in the state of Missouri at that time,- eighth,-because there is no certificate of acknowledgement appended to the copy offered in evidence that shows that the original deed was properly acknowledged before an officer authorized to take the same,-ninth,-because it has not been shown that the copy offered in evidence has been in such custody as the law requires,-tenth,-because the deput- testifying to the record has not shown that he is qualified to account for the possession,-the continuous possession and care thereof".

E.L.Kelley,- resuming the witness stand, testified as follows,-

F — Direct examination byP.P.Kelley,-

Xxm xxexkx

I Q-You are the same E.L.Kelley who was on the witness stand before this after noon? A-Yes sir.

2 Q-And was examined by Judge Traber? A-Yes sir.

3 Q-Well with reference to that examination, or this Exhibit 2I, I may now ask you if your answexsxx to questions I might put to you in reference to your position with the plaintiff would be the same as you have here-to-fore given? A-Yes sir.

4 Q-Now I will ask you to look at this paper,marked exhibit 2I, and state to the reporter what it xxx is? A-It is a certified copy of a deed conveying property in Jackson County Missouri, made by Edward Partridge to Jane Cowdexy and others,

5 Q-I will ask you to state whether or not you as the bishop of the plaitiff church have in your possession, custody or under your control the original deed,- of which that purports to be a copy? A-I have not.

6 Q-You have not? A-No sir, Nor ever xaxx had it in my possession. I do not know where the original deed is,nor in whose hands x it is.

7 Q-Was it ever in the possession of the plaintiffs so far as you know? A-Not to my knowledge.

8 Q-What efforts, if any, were made to find it? A-I had the Recorder of Jackson County examine his office for the original as early as I877, aboutx the date of the copy here,- or I887 I mean to say,- and he could not find it, so he stated to me, nor did his records show who took the deed from his office,- that is who took the original deed from his office.

Cross-examination,-

9 Q-Did you ever see the deed? A-I never did.

I0 Q-Did you ever know of any one who had it in their possession? A-No sir.

II Q-You never did? A-No sir, I never did. I never knew of any one who claimed to have it in their possession.

I2 Q-Was the deed ever in the possession of the Re-organized Church of Jesus Christ of Latter Day Saints? A-Not to my knowledge.

I3 Q-I under stand you to say that you made diligent xxxxxxx search to assertain all these facts? A-Yes sir.

By Mr. Kelley,-

I4 Q-And you don't know anything about its where abouts, or whose possession it is in? A-Not a thing in the world.

"Plaintiffs offer the deed marked exhibit 2I, for the further purpose of showing that the property therein described and referred to, was the property held in trust by Edward Partr- ridge for the use and benefit of the church, and also for the purpose of notice of such trust upon the records of Jackson County the 7th day of February I870, which is the date of the record of the deed".

By Mr.Southern,- "The defendent objects to the paper being offered to prove the propositions stated in the offer last made, and in support of his objection advances the same reasons as were advanced in the objections here to fore made, and for the further reason that the instrument offered does not in any x of its terms prove the propositions to prove which in now offered.

Exhibit 2I, offered above, is in words and figures as follows to wit,- Edward Partridge,

To Deed

Jane Cowdery, et al.

Know all men that whereas there was money put in my hands, to wit,- in the hands of Edward Partridge, by Oliver Cowdery an elder in the

church of Latter Day Saints, formerly of Kirtland, State of Ohio, for the purpose of entering lands in the state of Missouri, in the name of, and for the benefit of said church; and Whereas, I, Edward Partridge was Bishop of and in said church he took said money and funds thus put in his hands and and entered the land in his own name in the County of Jackson, State of Missouri in the name of Edward Partridge, the signer of this deed,

Now know ye that for the furthering the ends of Justice, and as I have to leave the state of Missouri by order of Govener Boggs, and with me also our church, I do for the sum of One ~~hundred~~ thousand dollars, to me in hand paid by Oliver Cowdery do give, grant, bargain & sell to John ~~Smith~~ Cowdery son of Oliver Cowdery, now seven years old; and Jane Cowdery three years, and Joseph Smith Cowdery one ~~ye~~ year old, all the lands entered in my name in the county of Jackson, in the district of Lexington in the state of Missouri. Said Edward Partridge the first party and signor of this deed does also sell alien and confirm to the aforesaid John Cowdery, and all he owns in his own name by private purchase & holds by deed of gift, being intended for the use of the Church of Latter Day Saints or other wise. This sale is to embrace all lots of all sizes, situated in Independence & to embrace the lot known as the Temple Lot, and all other lands of what ever discription Said Partridge the first party is entitled to in said ~~County~~ Jackson County in the state of Missouri. Said Partridge also agrees to amens this deed to said Oliver Cowdery at any time for the purposes aforesaid.

Jane Cowdery and Joseph Smith Cowdery all real estate and lands he has both entitled as aforesaid,

Given under my hand and seal on the date above written.

E.G.Gates, Witness. Edward Partridge /SEAL)

State of Missouri. Caldwell County, s ~~s~~.

Be it remembered that on the 25th day of March 1839, before me the undersigned, one of the Justices of the County Court, in and for said County, came Edward Partridge, who is personally known to me to be the same person, whose name is ~~subscr~~ subscribed to the ~~writing~~ foregoing instrument of writing as party thereto, and did acknowledge the same to be his act and deed for the purposes therein mentioned.

In testimony wherof, I have hereunto set my ~~hand and~~ hand and affixed my private seal on the day ~~of~~ and year above written.

Elias Higbee. J.C.C.C..

The foregoing deed with the acknowledgement thereon from Edward Partridge to Jane Cowdery et al, was filed and duly recorded in my office on the 7th day of February A.D. 1870.

A. Cumingo,
Recorder.
By H. G. Goodman, Deputy.

State of Missouri)
)ss.
County of Jackson)

I.R.T. Hinde, Recorder of Deeds, within and f said County of Jackson and state of Missouri, do hereby certify that the foregoing is a full, and true, and complete transcript of the record of the Deed----------
----------acknowledgement----------
and note of record thereon endorsed from Edward Partridge to Jane Cowdery

et al-as the same now remains of record in my office at Independence Book No 73 at page 432 following.
In testimony whereof,Ihave hereunto set my hand and affixed the seal of said ~~county~~ office at my office in the city of Independence, in said county, this IIth day of June A.D. I887
R.T.Hinde,Recorder.
By W.R.Hall,Deputy.

Seal.

By Mr.P.P.Kelley,-"Plaintiff now offers in evidence a quit-claim deed.dated the 9th day of June I887, executed by Marie Louise Johnson, and Charles Johnson, her husband to George A. Blakeslee, Bishop, and trustee in trust of the Re-organized Church of Jesus Christ of Latter Day Saints, of the County of Berrien in the state of Michigan, for the use and benefit of said church according to the laws and usuages of the same and discribing lots fifteen,sixteen,seventeen, eighteen, nine-teen, twenty, twenty-one,and twenty two, all of Woodson & Maxwell's addition to the city of Independence, Missouri,- acknowledged on the 9th day of June I887, before D.E.Havens, Notary Public in the County of Mac Donald in the state of Missouri,- filed for record the I0th day of June I887 at I0:I0 o'clock A.M., and recorded in the Recorders office of Jackson County Missouri the tenth day of June I887 in book I46 at page 544.
The paper offered in evidence above is marked "exhibit 22,J.M.O.".

By Mr. Southern,-"That is objected to because it is not relevant to any of the issues raised by the pleadings in this case on trial. That is the first ground of objection, and the second ~~xxx~~ one is because it does not purport to coney any interest in the property in litigation in this case, and therefore is immeterial,-and thirdly,because it is not shown that the deed was executed as it purports to have been executed.
It being impossible to conclude the taking of the depositions herein on this day, by agreement of the parties hereto,entered into in my presence the further taking of the same was continued until Thursday the 2Ist day of April I892 at the hour of 2 o'clock P.M.
Now on this Thursday the 2Ist day of April I892 at the hour of 2 o'clock P.M., the same being the time to which the further taking of the depositions here was aforesaid., come the parties hereto as aforesaid, and the further taking of depositions herein was continued pursuant to agreement,- W.R. Hall, being recalled, testified as follows on behalf of Plaintiff,-
Direct examination by P.P.Kelley,-
"Iwill first offer in evidence exhibit 22 ~~here-in-fore~~-before referred to
This is exhibit which I offered the last day we were here"
The exhibit above referred to is in words and figures,as follows,to wit:-"ThisIndenture made on the 29th day of June A.D. one-thousand eight hundred and 87, by and between Marie Louise Johnson, only surviving child of Oliver Cowdery,and Dr Charles Johnson her husband, of the town of South West City and state of Missouri, parties of the first part, and George A. Blakeslee,Bishop and trustee in trust of the Re-organized Church of Jesus Christ of Latter Day Saints, of the County of Berrien and state of Michigan, party of the second part,
Witnesseth, that the said parties of the first part, in consideration of the sum of one-hundred dollars to them paid by the said party of the second part, the receipt of which is hereby acknowledged, do by these presents remise, release and forever quit claim unto the said party of the second part, the following described lots, tracts or parcels of land lying,being and situate in the County of Jackson,and state of Missouri

to wit,-
The premises known as the "Temple Lot" in the city of Independence in said County; the same being also platted and described as lots I5,I6,I7,I8,I9,20,2I,&22 all of Woodson&Maxwell's addition to the city of Independence, Missouri.Habendum to George A. Blakeslee,trustee in trust, the said premises being for the use and benefit of the said church according to the laws and usages of the same, said premises containing about two acres and one half more or less.
(This deed of Quit Claim being made in release of,and satisfaction for "The Temple Lot" included in other discriptions in a certain deed dated the 29th day of May I886;recorded in the Recorders office within and for the County of Jackson, in Deed book I46 at pages I39)
To have and to hold the same with all the rights, immunities, privelages and appurtenances there to belonging into the said party of the second part, and his sucessors in office and assigns for ever; so that neither the said parties of the first part nor their heirs,nor any other person or persons for them, or in their name or behalf, shall or will hereafter claim or demand any right or title to the aforesaid premises or any part thereof, but they,and every one of them shall by these presents, be excluded and forever barred".
In witness thereof the said parties of the first part, have hereunto set their hands and seals the day an year first above written"
Signed,sealed and delivered in the presence of
Marie Louise Johnson (Seal)
Charles Johnson (Seal)

E.L.Kelley.

State of Missouri)
)ss.
County of MacDonald)
Be ir remembered that on this 9th day of June I887, before me personally appeared Marie Louise Johnson and Charles Johnson, her husband, to me known to be the persons in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.
In testimony whereof I have hereunto set my hand and affixed my official seal at office in South West City,the day and year first above written.
My term as Notary expires March 2Ist I888.

D.E.Havens.
(S E A L) Notary Public.

State of Missouri)
)ss.
County of Jackson)
I.R.T.Hinde,Clerk of the Circuit Court,and ex-officio Recorder of said County,do hereby certify that the within instrument of writing was, on the I0th day of June A.D. I887,duly filed for record in this office, and is recorded in the records of this office, in Book I45 at page 544.
In witness hereof I have hereunto set my hand and affixed the seal of said Court at Indep Mo, this I0th day of June A.D. I887.

R.T.Hinde Recorder.
(S E A L) per W.R.Hall Deputy.
(On the back of said exhibit 22 appears the following endorsements, to wit)
No I4. Quit Claim Deed. from Marie Louise Johnson et al to Geo

of L.D.S. Filed for record this 10th day of June 1887 at 10 o'clock and 10 minutes A.M.. R.T. Hinde, Recorder by J. Packard Deputy 146,544. Recorders fee 75cts.paid,Trans 80.Mail Geo A. Blakeslee Galien Mich.

W.R. Hall being recalled on behalf of the Plaintiff,testified as follows,-

Direct examination by P.P. Kelley,-

1 Q-You are the same Mr. Hall that was on the witness stand yesterday after noon, are you not? A-Yes sir.

2 Q-And you ~~xxxxxxx~~ are the gentleman who testified that you were the Deputy Recorder here at Independence? A-I am.

3 Q-Look at that paper Mr.Hall, marked 23, and state to the reporter whether or not that is a correct copy of the record of the deed referred to. You see we say "we do hereby certify that the foregoing is a full true and complete transcript of the record of the Quit Claim Deed ~~xxx~~". etc,

4 Q-Is that a transcript of the identical page of the record on page 146 that you identified here in the Court yesterday when you were on the stand? A-Yes sir, it is the same.

"Well I offer the certified copy of the deed from Elizabeth Ann ~~xx~~ Cowdery to Marie Louise Johnson, marked exhibit No 23 in evidence".

By Mr. Southern,-"On the behalf of the defendents I object to the introduction of the exhibit offered in evidence, and because the original deed is not offered in evidence, which would be the best testimony; and in the second place I object to it because the instrument offered in evidence is copied from the records, and the records themselves are not produced here by a party who has had charge of them as the law requires."

5 Q-I will ask you another question Mr. Hall. I believe you stated yesterday on your cross examination that you had been connected with the recorders office since 1886? A-Yes sir. I stated that.

6 Q-And since about the first of 1887, or some where along there, you have been the deputy recorder? A-Yes sir.

7 Q-At Independence Missouri? A-Yes sir.

8 Q-Now as the deputy recorder have you had charge of the books of the office,-the books containing the records of deeds filed, during that time? A-Yes sir.

9 Q-In connection with the recorder himself? A-Well sir,Well not all of the time either.

10 Q-Well what part of the time did you have charge of them? A-Well I have charge of them now.

11 Q-You have charge of them now? A-Yes sir, and I have had charge of them since the first of the year.

12 Q-How do you happen to have charge of them now? A-Well the recorder placed me in charge of them.

13 Q-Where is the recorder? A-In Kansas City.

14 Q-Where did he live prior to January first of this year? A-Where did he live?

A - Well he is our certificate on it to that effect. We certify that it is a correct copy of the quit claim deed made on the 29th day of May, 1885 ? by Elizabeth Ann Cowdery to Marie Louise Johnson, We certify that it is a correct copy of the

I5 Q-Yes sir? A-Well he lives here now, but he stays at the Kansas City office every day.

Cross-examination by Mr. Southern,-

I6 Q-Mr. Hinde the recorder comes down to the office here does he not? A-Yes sir, he is here occasionally.

I7 Q-He comes down to the recorders office here, and does he or does he not do whatever he pleases with the books in the office? A-Certainly.

I8 Q-He comes down and visits the office repeatedly does he not? A-Yes sir. he is here about one day out of the week.

E.L.Kelley being recalled on the part of the plaintiff, testified as follows,-

Direct examination by Mr P.P.Kelley,-

I Q-You are the same E.L.Kelley that was on the witness stand yesterday, are you not? A-Yes sir.

2 Q-You are the Bishop of the Church of Jesus Christ of Latter Day Saints, the The Complainants in this action? A-Yes sir

3 Q-I will ask you, who if any body, was the bishop of the Re-organized Church of Jesus Christ of Latter Day Saints, prior to your appointment to that office? A-George A. Blakeslee of Galien Michigan.

4 Q-Is George A. Blakeslee living now,-if not when did he die,if you know? A-No sir, he is not living. He died on the 20th of 'September I890. I think it was the 20th,- it was the I7th or the 20th, and I think it was the 20th.- He was the bishop of the church up to the time of his death on either of these days.

5 Q-Who acted as the bishop of the church from the time of the death of Blakeslee until the time of your appointment as bishop? If any body? A-I acted as the bishop of the church, by virtue of being the Counsellor of the bishop prior to his death, the incorporations providing that the counsellors shall hold their office as trustee upon the death of the bishop until the new bishop is elected and qualified.

By Mr. Southern,-"That answer is objected to for the reason that it manifestly is not the best evidence of the facts spoken of or called for".

A-And in that connection I will state by virtue of an appointment by the Presidency of the church.

6 Q-I did not hear that answer? A-I said I would also state in addition to that, by virtue of an appointment by the Presidency of the Church.

"Well I will renew my objection to the answe in that form."

A-The appointment is in writing and you can call it forth if you wish to do so.

By Mr. P.P.Kelley,-

7 Q-I will ask you what you have done either as the bishop of the church, or as the agent of the church, in trying to secure the possession of the property in controversy in this case, or in the way of exercising or attempting to exercise any acts of ownership over the same for or in behalf of the church? State full all you have done in that connection?

Counsel for the defendents objects to the question asked the witness for the reason and on the grounds that there is manifestly other and better testimony than that called for in the question asked the witness and because it is irrelevant,

8 Q-In connection with that question if at any ~~time~~ reference is made to any papers of any kind, you may produce the papers and have them identified as a part of your answer to this question? A-Well acting for the society or for the church, I caused or served notice on the party who claimed to be the trustee of the church here, Mr. Hill, I believe it was in 1887 that notice was served upon him. It was served upon him by reading it to him, and by giving him a copy and I have also paid taxes upon the property myself since I have been Bishop'

9 Q-I will ask you if this is the duplicate or original of the notice that was served on him.

The paper ~~marked~~ above referred to and identified by the witness is marked "exhibit 24.J.M.Orr" (the foregoing exhibit 24, was afterwards withdrawn)

10 Q-You can present that to the reporter and have it identified as an exhibit? (which was done, the same being marked as herein before set forth).

By Mr. Southern.- "Defendents object to that as irrelevant and as secondary evidence".

11 Q-Have you in your possession the receipt of taxes paid? A-Yes sir.

12 Q-You have? A-I think I have,-a part of them at least. I have a receipt on lot 16 in Temple ~~block~~ place "Received of E.L. Kelley of the latter Day Saints church $1,47 in full for taxes,oct".

The receipt for taxes identified by the witness, and from which the foregoing extract was read, is marked "Exhibit 25,J.M. Orr".

13 Q-Who signed that receipt?A- E.W.Hayes by J.D.Eubank,I,think it is If I can read it right that is it.

14 Q-What else is there? A-Also on the 2nd day of January 1891" received from the Re-organized Church of Latter Day Saints by. E.L. Kelley trustee in full for taxes on real estate for the year 1890 described as follows;-Lots 17 to 22 all E Grand Avenue, Lot 23 ~~in Block 2~~ Woodson and Maxwell's Addition $81,22. signed Frank C. Wyatt, by Jno.H. Modie,Deputy" That is not the property in question if I remember rightly. It is the lot north of it that I spoke of yesterday.This is lot 16.

15 Q- Is there two lots numbered 16? A- There may be. I don't know about that. This Exhibit 26 is on the property in question though.

16 Q-We offer these in evidence.

By Mr. Southern,-"We object to the papers offered in evidence purporting to be receipts for taxes, because they are not relevant to any issueraised by the pleadings in this cause,and because they are not properly identified".

By Mr.P.P.Kelley,-"Plaintiff now offers to withdraw Exhibit No. 25 for the reason that it is not on the property in controversy and does not cover the property in contrversy,-strike it out of the record entirely".

Cross-Examination by Mr.Southern,-

17 Q,-Did you,-Have you any other tax receipts for money that you ~~have~~ paid for taxes on this ~~property~~ property? A,- Not that I remember of now.

18 Q-Did you ever pay any other taxes on the property in question excepting the taxes that you paid represented by the receipts here that you have presented? A- No sir. I called at the collectors office once or twice to do so,but some else had got ahead of me and paid them.

19 Q-You did not

Call at the office mre than once or twice? A-No sir.

20 Q-The taxes have been paid on this propeity for a great many years? A-Yes sir. I suppose so, but not that I know of of my own knowledge.

Counsel for the plaintiff objects to the question asked the witness on the ground that it does not call for the best evidence

21 Q-Did you not pay the taxes as you did on this prpoerty for the purposes of this suit and to assist the plaintiff or complainant in this litagation? A-No sir, we claim this propeer ty now,and we claimed it then, and wanted to pay the taxes on prpoerty that we considered was our property.

22 Q-Why didn't you pay ~~kmx~~ all the taxes on this property? A-We did ~~xxxxxxx~~ whenever they were due and we knew it.

23 Q-Well you never found the taxes due but one or two instances? A-Yes sir, that is all.

24 Q-Were these taxes you paqd,county or city taxes? A-It is county taxes.

25 Q-At the time you paid that, did you pay the city taxes? A-I thought I paid that up, except the sidewalk tax.

26 Q-Did you ever have a receipt for it? A-I thought I had, but I see it is not in my pocket.

27 Q-Did you ever attend to having this property assessed? A-No sir.

28 Q-You never did at any time? A-No sir.

29 Q-Did any body representing the church you nepresent, ever do it? A-Not to my knowledge. All I ever did in reference to that was to place our deed upon record, which at the time run to the church, and when we had our deed put upon record, requiring this to run to the church, we claimed it was church property.

30 Q-I have one more question,-did you ever make any effort to get this property exempted from taxation because it was church property? A-I never made application for that. We have been trying to get ~~xx~~ that for along.

By Mr. P.P. Kelley,-"I now offer in evidence exhibits 23, and 24".

Counsel for the defendent objects to ~~the question~~ exhibit 24 being offered in evidence for the reasons here-to-fore given, and objects to exhibit 24 on the ground that no service as required by law has been proven".

Exhibit 23 offered in evidence is in words and fogures as follows to wit,-"This Indenture made on the twenty ninth day of May A.D. 1886,by and between Elizabeth Ann Cowdery,widow of Oliver Cowdery, deceased, of the county of MacDonald,and state of Missouri party of the ~~first part, second part,~~ first part, and my daughter Marie Louise Johnson, the only living child of said Oliver Cowdery, of the County of MacDonald & state of Missouri, party of the second part,

Witnesseth,-That the said party of the first part in consideration of the sum of Natural Love and affection for my said daughter and the sum of One dollar to me paid by the said party of the second part, the receipt of which is hereby acknowledged, do do by these presents remise, release and for ever quit claim unto the said party of the second part the following described lots, tracts and parcens of land, lying beind and situate in the County of Jackson and state of Missouri,to wit,- The west half of the N.W.I-4 of section ~~xx~~ 33, township 49 and ~~x~~ range 33, W of the P.M., and the north twelve acres "of the" of the East half of the said N.W I-4 of said sec. Township and range, and the south fifty ~~xxx~~ two acres of the aforesaid East half of sec 33, Township 49, Range 33; Also a tract of eleven acres, more or less, in the N.E. I-4 of the N.W.-I-4 of sec. 21, Township 49, Range 33, W 5th P.M., described as follows

to wit,-commencing I60 poles frm W of the N.E., corner of said section, thence W I6 poles, and five links to stake in the Independence and Westport Road, thence S 22 degrees, West I2 poles&10 links: Thence S 47 degrees,W I8 poles to stake in Westport road near a spring; hence S II degrees, E 40poles &22 links;Thence E 25 poles and 22 links, Thence north 64 poles,3 links, to place of beginning. Also a tract of land Eighteen acres two rods and I5 poles in said Sec.2I, Township 49 and range 33, W 5th P.M., described as follows, to wit,- Commencing I04 poles 22 feet west of the N.E. corner of said sec. thence with nine degrees variation S I3 degrees W 65 poles I5 links; thence W. 24 poles 2½ links, thence N. 2 poles 8 links. thence E to place of beginning. Also a tract of about forty acres in the S.E. I-4 of section 3, Township 49, Range 32 W 5th P.M. Commencing at a point 40 rods west of the east line I22 rods North of south line of said section; thence S 70 degrees, W I7 poles I5 links. Thence S 54 degrees West 40 poles, thence south 55 degrees W 30 poles, thence S 42 degrees, W 34 poles, thence S I5 degrees W 20 poles, thence E papalell with south sec. line to a point 40 rods West of East Section line, thence to place of beginning.

To have and to hold the same with all the rights, immunities, priviledges and appurtenances thereto belonging unto the said party of the second part, and his heirs and assigns for ever, so that neither the said party of the first part, nor her heirs or any other persons or persons for her or in her name or behalf, shall, or will hereafter claim or demand any right or title to the aforesaid premises or any part thereof but they and every one of them shall by these presents, be excluded and forever barred.

In witness whereof the said party of the first part has here unto set her hand and seal, the day and year first above written.

her
Elizabeth Ann x Cowdery (Seal)
mark

Witness to mark.
D.E.Havens.
N.Howard.
(Howard)

State of Missouri)
)ss.
County of MacDonald)

On this 29th day of May I886, before me, a Notary Public, personally appeared Elizabeth Ann Cowdery, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed. And the said Elizabeth Ann Cowdery declared herself to be single and unmarried.

In testimony whereof I have hereunto set my hand and affixed my official seal at my office in South West City, the day and year first above written.

My term expires March 21st 1886.

(Seal) D.E.Havens,
Notary Public.

Filed for record and duly recorded in my office on the 22nd day of June A.D. I886 at 8 o'clock and 05 minutes A.M.

Chas. D. Lucas Recorder.
By E.T. Packard, Deputy.

State of Missouri)
)ss.
County of Jackson)

I John W. Hinde Recorder of deeds with in and for said County of Jackson.

and state of Missouri, do herebu certify that the foregoing is a full, true and complete transcript of record of the Quit Claim Deed acknowledgement ~~of~~ and note of record thereon' endorsed from Elixabeth Ann Cowdery, to Louise Marie Johnson, as the same now remains of record in my office at Independence Mo.
Book I46, at page I39.
In testimony whereof I have hereunto set my hand, and affixed the seal of said office, at my office in the city of Independence in said County, this 2Ist day of April A.D. I892.

Jno. W. Hinde, Recorder,
By W.R. Hall Deputy.

Seal

The following is a true, correct and accurate copy of exhibit "24" offered in evidence on the part of the plaintiff herein to wit,-

Notice to Quit Possession.

To Richard Hill and all whom it may concern,-

You are hereby notified that the Re-organized Church of Jesus Christ of Latter Day Saints, requires of you the possession of the premises known as the "Temple Lot" in Independence, Jackson County, and state of Missouri; the same being more particularly described and platted as follows,-Lots I5,I6,I7,I8,I9,20,2I,and 22 all of Maxwell and Woodson's addition to the city of Independence aforesaid,
And you are further notified not to make or undertake any improvements upon the said premises or any part thereof, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ either in buildings or otherwise, and that any buildings or improvements of whatever character put upon said premises or any part thereof, without the written consent of the said Re-organized Church, will be to the loss of those making the same; and the said Re-organized Church as the legal and duly Incorporated Society in sucession to the Church of Jesus Christ of Latter Day Saints organized April 6th A.D. I830, by Joseph Smith at Palyyra, N.Y. and which was dis-organized A.D. I844, demands of you a total cessation of all work, labor or improvements on the said premises or said part thereof, and also the possession of the same, and unless you comply with this demand and surrender of the premises, legal action will be instituted against you, for the same and for costs and damages.
Independence, Mis June 11th I887.

G.A.Blakeslee, by attorney.
Bishop&Trustee for Record.
Church of J.C.of L.D.S.

Robert Weston of lawful age , being produced, swotn and examined on the part of the plaintiff, testified as follows,-
Direct examination by Mr.Traber,-

I Q-What is your name? A-Robert Weston.
2 Q-What is your age Mr.Weston? A-~~Yes sir~~ My age?
3 Q-Yes sir? A-I was seventy-five the first day of last November.

By Mr. Southern,- "Please enter my objection to the testimony of this wotness being taken, for the reason that the witness has hereto -fore been sworn , and examined in direct and cross examined and then discharged in this case, for these reasons I object to his being further examined.

By Mr. Traber,-

4 Q-You say you are past seventy five? A-Yes sir,

By Mr. P.P.Kelley,-"Well I will say for your satisfaction Colonel that the witness will not now be examined with reference to anything

that he was examined upon before".

By Mr. Traber,-

5 Q-Where do you reside now Mr.Weston? A-Here in Independence,Missouri.

6 Q-How long have you resided here in Independence, Missouri? A-I am not certain, but I think my father moved here when I was about eleven or twelve years of age. I am not certain about the time for I was a boy and didn't notice particularly the time that we came here, but I think I was a boy of about ~~xxx~~ twelve years of age when we fir st came here, and that would make it sixty three years since we came here,- and that is the length of time that I have lived here.

7 Q-You have lived here sixty-three years then? A-Yes sir, about that.

8 Q-Where did you live from I850 to I854? A-I lived here.

9 Q-In the town of Independence do you mean? A-Yes sir.

I0 Q-Do you remember when the"Latter Day Saints " first came to Independence? A-Yes sir. I remember about that time. I remember of their coming here, but I don't know that I knew the exact day that they first landed here.I do not know that they all came at one time,- I rather think they came off and on from time to time. I remember their coming , but I can't say that I remember the time of their coming,

II Q-But the fact that they did come and go away again, you remember A-Yes sir, but I dont remember the years exactly. I remember they came here and went away.

I2 Q-You remeber their coming here, and their going away again? A-Yes sir.

I3 Q-Now you are acquainted with the location of what is known as and what has been spoken of as the Temple property? A-Yes sir pretty well. I may say I am pretty well acquainted with it and where it is,- and that is to say I know it by passing and repassing it and looking at it, for I had no other interest in it than that, but I have seen it a thousand times I guess.

I4 Q-Do you know where the present church edifice is located, - the ~~x~~ stone church that has been recently built down there, is the one I refer to? A-Yes sir.

I5 Q-Now with reference to that church, where did this Temple proper ty~~x~~ lie? A-Well we always considered,- we always thought it was south of the road there.

I6 Q-On the south side of the road there? A-Yes sir, right across the road from where the church is there now,- that is on the south side of the Westport road there.

I7 Q-That road is the street that runs in a south-westerly direction out here, is it not? A-Well I think it runs pretty near west.

I8 Q-Well it runs in a westerly direction? A-Yes sir.

I9 Q-This road that you speak of the"Westport Road" runs out here in a westerly direction past the Temple property? A-Yes sir. That was what we called it in the early days,-the "Westport road" and in fact it is called that yet by some of the old-timers,-The road that was called the"Lexington road" led up to it I believe.

20 Q-Where did the Lexington street terminate? A-At the boundary of ~~x~~ the city.

2I Q-At that time you mean? A-Yes sir.

22 Q-Where was the boundary of the city at that time? A-Well at that time it was a good deal further east than it is now.

23 Q-Then if I under stand you correctly the street or road to the

city, going east, was known as the "Lexington street, after you passed the boundries of the city is was known as the "Westport road?" A-Yes sir.

24 Q-That is how it was designated? A-Yes sir, that is what we always called it. That is the way it was known here at that time.

25 Q-Now please discribe it as best you can, the present location of what you under stand to be the "Temple property"? Describe the locafion of what you under stand to be that property? A-Well that is something that is rather hard to do. What I under-stand now as being the "Temple Lot" is that piece of vacant ~~ground~~ ground across from the present Latter Day Stone church building down there, but at that time I ~~xxxxx~~ am talking about that whole piece of ground south of the Westport there was called the Temple property. I did not know it was laid off in any particular lot to build the temple on, but I had a general idea that all that ground down south of the Westport road there was Temple ground, not that any particular part of it was laid off to build the Temple on but that the whole of it was Temple ground.

26 Q-Well now when you say all that property south of the road, you do not mean just what you say, but you mean to confine it to some particular piece of property there? A-Yes sir. It was down there some where about where Pacific street runs there by Wagoner's Mill. It was down in that direction,-

27 Q-Do you know any thing about ~~xxx~~ a street called "Temple street"? A-No sir.

28 Q-You don't know any thing about that? A-No sir.

29 Q-How long has it been since you have seen this property? A-Not long ago,- I saw it last ~~xxxxxx~~ Sunday.

30 Q-How is that? A-I wen t by it last Sunday and saw it. That was the last time I believe I saw it, but I have seen it more than a thousand times I suppose altogether.

31 Q-Now where did you say it laid with reference to the stone church down there? A-Well it lies south of it.

32 Q-The Temple property, as you under stand it, lies south of the church? A-Yes sir.

33 Q-And across what, from the church? A-Yes sir.

34 Q-And across what road did you say? A-This Westport road or Lexington Avenue.

35 Q-That road then runs between the church and the property known as the Temple Lot? A-Yes sir.

36 Q-That is where it lies? A-Yes sir. I am not certain too, but what the ~~xxxxxxx~~ highest point on it is very near there.

37 Q-Is it enclosed now? A-It is now. ~~xxx~~ The ground is enclosed now but it had not been enclosed for a long time during the war, and after the war for a great many ywars it was not enclosed.

38 Q-Is there any buildings on it at the present time? A-Yes sir they have a little meeting house there-just a small little plain meeting house.

39 Q-Do you know what denomination has the little meeting house there A-No sir, not particularly,- they are called Mormons but what branch of the Mormons I do not know.

40 Q-Do you know any of the parties that are identified with it? A-No sir I don't know that I am acquainted with them,-not one of them I do not think I use to know Hedricks that got killed out here,- the man that talked so much about it, and he lived out here on the Lexington road.

41 Q-That is east of Independence? A-Yes sir.
42 Q-You said you were here at the time the Mormons, or the Latter Day Saints lived here? A-Yes sir,
43 Q-Now do you remember any of the circumstances attending the leaving of the Mormons from this section of the country? A-The leaving of the Mormons?
44 Q-Yes sir? A- Well yes sir some of them I do .
45 Q-Well then if you remember, I wish you would tell some of the circumstances surrounding them at the time they left? A-Well just when they left I don't know so much about it for a while before they left for I had been sick a good while then, and was just coming out of a spell of sickness, and was just able to be up and about. I know that the people of the town here gathered up their guns and pistols and weapons of this kind, and went out of the city, for the news had come that the Mormons were gathering out west of the city here to take the town. There was a great deal of excitement about it, and after a while they said the Mormons had concluded not to fight, and they were going away, and after that they went away. I don't remember the time. I don't remember the exact time of that but while there was a lot of excitement and trouble about it at that time there was no killing or blood x shed or any thing of that kind. I remember that I went out a piece for I was getting so I could walk, and so I went out a piece west of town to see what could be seen for they said the Mormons were coming out from Westport, and from up above the Blue to take the town, but I could not see any thing, and I think there was nothing to the report.

46 Q-You said "they",- now whom did you mean by"they"? A- The citizens of Independence.
47 Q-The citizens of Independence who were not Mormons? A-Yes sir.
48 Q-Do you remember any thing about the destruction of property that belonged to the Mormons or the people that were called Mormons by the citizens? A-Yes sir. Well all I know about that is that it was done and they said it was them did it. I know that property was destroyed, for there was a house right up above where my father lived that was torn down,-I mean it was burned up one night, and it was said that it was the anti-Mormon element, or the citizens that did it. That belonged to my uncle.
49 Q-Did you know any thing about the destruction of the printing press? A-Yes sir.
50 Q-Well what do you know about that? A-I know a good deal about it for I saw them go in there. I saw them go in and knock the door in and take these little things,- the type,-and throw them out on the street, and they were there in the street for years.
51 Q-What time of the day was that? A-I do not know for certain. But I think it was in the after-noon.
52 Q-That was in the after-noon you say? A- Yes sir, I think so.
53 Q-How many people were engaged in that enterprise? A-I can't say how many there was in the work, but the street was full of people. It was pretty full there was lots of people there.
54 Q-Can you now recall the name of any man that was engaged in that work? A-Yes sir.
55 Q-Who was it? A-Well John King was the man who knocked the door in
By Mr. Southern,-
56 Q-Did you see these things yourself? A-Yes sir. I saw him knock the door in. There was a man named Franklin there too,and the

way I know Franklin was there was because there was an old ~~follow~~ follow there by the name of Warner, and old Franklin struck him and knocked him in the street. I saw that. and that is how I know these two men were there. I did not know the men at the time, but they said it was him,- at any rate I saw this man knock Warner down and afterwards I was told it was Franklin.

57 Q-Where were you when you saw this? A-I was only a boy, but I was there on top of a shed and in a good place to see about all that was going on. I was there on the shed taking it all in, and I saw them fighting there. The way it was was they were fighting there, and this old man Franklin took a hand into it and knocked this man Warner down, and I heard Franklin say afterwards that he thought it was time to stop it, That was Bill Franklin's father who did that.

By Mr. Traber,-

58 Q-What did they knock the door in with? A-Well I forget just what it was, but I think it was some stuff that they had hauled up there to make boards of. I think it was some of that stuff that they had hauled up for that purpose, for you know in the early days in this country they use to make a good many boards out of stuff that would be cut for that purpose out of timber, and he took up one of these pieces, and went up the stairway and knocked the door in with it.

59 Q-What was it you said he took up the stairs and knocked the door in with? A-It was one of these pieces of wood that they made boards out of, or did make boards out of in those days, for of course there is no boards made in that way now,-at least not in this part of the country, I don't know now what it was called,- I can't remember, but I used to know what they called these things, but I forget what they did call it. What was the name of the pieces of wood they used to make boards out of?

60 Q-Well it was a chunck o wood,- a stick? A-Yes sir a piece of timber.

61 Q-Well what other property was destroyed at that time that you know or any thing about personally? A-well there was lots of property destroyed that they destroyed. I am satisfied the mob did it but I did not see it personally . I am satisfied of that although I did not see it, and I do not know exactly what it was.

62 Q-What do you know Mr.Weston about any stores being broken into? A-Well I know Algernon Gilbert had a store up there, but I don't think it was destroyed,- at that time I don't think it was destroyed any way. I don't know, but I don't think it was

63 Q-Do you remember seeing any goods in the street? A-No sir, I did not. They may have been there, but I did not see them if they were,-at any rate I have not any recollection of it now. Gilbert was a very nice fellow and I don't think any body troubled him at all, but it might possibly have been done, and I not know it.

64 Q-It might have been done, and you not know it you say? A-Yes sir It might have been done and I not know it. This man Gilbert was a nice smooth fellow, and I do not think any body troubled him but still they might have done so, and I not know it.

65 Q-Do you remember seeing Edward Partridge at any time? A-I do not remember the name,-

66 Q-Well Mr. Partridge? A-I remember a Bishop Partridge they all called him.

67 Q-Well what do you know about him? A-I remember seeing some fellows have the old man out one day and putting tar and feathers
68 Q-Where was that,-was that here in Independence that you saw that being done? A-Yes sir,-right up here in the Court house lot they did that.
69 Q-He was tarred and feathered? A-Yes sir.
70 Q-How many were tarred and feathered besides him at that time? A-There was another man,-I think a fellow by the name of Allen is all I can recollect.
71 Q-How many of the good citizens had any thing to do with ~~xxxx~~it? A-Well if any of the good citizens had any thing to do with it I don't recollect seeing them there. I don't think that any good citizen had any thing to do with it, or with any of those troubles but at that time we had a lot of bad citizens there. I remember the fellow that was putting the tar on him was named Jonathan Shepherd, and he was a rough customer,-not a good citizen by any means. I don't think that any first class citizens were engaged in it at that time,- at least I would not consider them so. This man Johnathan Shepherd was a good for nothing, no account fellow, who never did any thing,- never did any good for himself or any body else, and there was another old fellow there named Bill Connor that was of no earthly account nohow,-he was living down here at the time, and he was a regular wild ~~xxxx~~ old fellow, and was never happy unless he was in trouble or getting other people in it. He took a very active part in the tar and feather business
72 Q-How many people were about at that time? A-Well there was a lot of them there. I don't know how many, but there was a good many there. I was a boy at the time and was running around kind of wild like looking for any thing that might turn up, but I remember that at the time I thought ~~xxxx~~ what they were doing was not right and I felt right sorry for the old ~~xxxx~~ man.
73 Q-You remember that you were there? A-Well yes sir I was there but I was on a roof,- I was one of the audience.
74 Q-Well I am talking about the "audience"? A-Well I was there but I did not have any thing to do with it, and I did not think it was right either. I remember right well that I was there, but if there was any other man there good, bad or indifferent, other than these I have named, for the life of me I could not tell you who they were.
75 Q-Well I am talking about the lookers on? A-Well I was one of the lookers on, and there was plenty of people there, but I can't say who they were. I was a boy and I wanted to see the sights and I saw them on that occasion too. The incident made a very vivid impression on my mind, for I remember seeing the old fellow going out of town west, and he had his hat on to keep the sun out of his eyes. He held it up to keep the sun out of his eyes but he could not put it on on account of the tar. I remember that I felt right sorry for the old fellow and felt that it was a great outrage.
76 Q-How long prior to that occurence had these disturbances been going on? A-Well I don't know but I suppose it must have been a year that they were talking and fussing around about before that.
77 Q-Well how long subsequent to that transaction was it before the Mormons left the city? A-Well I can't say as to that either, but I think that was about the time they went away.
78 Q-About that time they went away? A-Yes sir, about that time.

79 Q-Well were any of them permitted to stay after that time? A-What is that question?

80 Q-I asked you if any of them were permitted to remain after that time? A-I do not know that any of them were.

81 Q-You do not know that any of them were permitted to remain after that time? A-No sir, and I do not think they did remain, though I do not know about that, but I do not think they did

82 Q-How long was it subsequent to the tarring and feathering of Bishop Partridge, that this sentiment against the Mormons obtained? A-How long afterwards?

83 Q-Yes sir? A-Well I don't know.

84 Q-Was it a long or shot period of time that this feeling or sentiment against the Mormons, as they were termed prevailed here? A-Well I can't say how long it was, but it was a good long while,- a good many years any way. I couldn't say exactly how long it was but I know for a good many years there was a bitter feeling here against them.

85 Q-It prevailed for several years then? A-Yes sir.

86 Q-I will ask you from that time down until in very recent years, that the same sentiment has prevailed generally amongst the people? A-Well I don't know. As far as my knowledge extends I must say that I do not know. I think though as a people they were not very well thought of in this section of country and in the minds of some people there was doubtless a very bitter feeling against them,- It was about like it is now,- for there is a great many people living here yet who don't think much of Mormons any way.

87 Q-Why of course,-? [illegible] A-Yes sir, there is people living here now that have not much use for Mormons and don't think very much of them now, but of course it is nothing like what it was at that time.

88 Q-Well that is what I thought? A- well in that respect it was about the same then as it is now, and there was several years I don't know how many, but a good many years, that they did not feel that they were safe here, and so they did not come around unless they did it secretly. I know a brother-in-law of mine who was a Mormon, bought the blacksmith shop and a man by the name of Cormack came from out in the country here eight or nine miles and ordered him off.

89 Q-When was that? A-I do not know the year.

90 Q-Well was it afterwards? A-Yes sir.

91 Q-Several years afterwards? A-Yes sir. I don't know how many years afterwards.

92 Q-A year or two afterwards was it not? A-Two or three years after afterwards or something like that. He was suspected of being a Mormon and so he was ordered off. I mention that simply to show what feeling prevailed at the time in the country regarding the Mormons, and it if none of them were permitted to stay if it were known or suspected they were Mormons.

93 Q-Well then I under stand you to say that the sentiment about the time of the tarring and feathering of Bishop Partridge here, in opposition to what you have called the Mormons, has continued down to the present time, and the opinion of the people,- A-Well now I want to say that I don't think the sentiment of the people generally at that time was in the favor of doing that thing. It was a thing that was done by some rough characters in the community. and I don't think it represented the sentiment of the people generally at ~~that~~ all at that time. I do not believe the peolpe of Independence

the best people of Independence approved of what was done, but then they did not rise and try to prevent it when it was done. They let these rough characters work their will on them I don't believe the best people of the country wanted to do that sort of thing, but as far as driving them off is concerned I expect there was a great many good men xxx wanted them away. to go away. but as far as doing them personal damage either to their business houses or persons is concerned, I do not believe they would have done it, or did do any thing of the kind. Now that is the best people, but there is xxx question that on the other hand the un-ruly turbulent element that was amongst the people here in the early days, and down until after the war, did do then a great deal of damage, and made it unsafe for them to stay here,- I know I would have felt that way if I had been in their place. It was a case of where the mob got the upper hand,- that is the way I look at it.

94 Q-Well now what efforts were made by the citizens to prevent it? A-To prevent what?

95 Q-To prevent these outrages from being perpetrated on the Mormons? A- Well I was out in the country xxxxxth just south of xxx about where this man warneke lives now, and there was a little shanty there, and a lot of follows came along there, and one of them jumped upon top of that, and went to tear it down, and they were and xxxx stopped and not permitted to do so. They would not let them do it, and that was the nearest I ever saw them come to doing damage and not do it.

96 Q-When was that? A-That was in the neighborhood of the time they went off from here.

97 Q-Well now I thought you said in the first place there was a good deal of property destroyed here? A-Well I say so still, but I did not see it all done. I know they did not tear that xxx little old shanty down then, but they may have done so afterwards.

98 Q-What was the reason they did not tear it down? A-Warneke hollered to them to let it alone, and they did let it alone. The way I come to see so much as I did was because I did not have much to do and I was knocking around seeing what I could see,-that was the reason I came to see as much as I did.

99 Q-Do you remember two gentlemen by the name of Potter and Gerber who came here about the year 1855? A-Who?

100 Q-Two Mormon gentlemen by the name of potter and Gerber who came here about the year 1855? A-I do not recollect about it. I might have known about it at the time, but if I did I have forgotten it.

101 Q-Do you remember any thing about any body being driven away from here about 1855? A-Well no, I do not, Well not I remember some thing about fellows going backwards and forwards, but I cant remember their names or who they were.

102 Q-Well in 1855 I mean? A-Well the border war was not very far off then,- it was not far off, and I remember that at that time they used to drive one another off now and then, but I don't know or remember of any Mormons being driven off in 1855, but there might have been so far all I know to the contrary

103 Q-You don't remember, then, about two men being driven across the river for preaching down here? A-Oh we did a follow named "Potter Christ".

104 Q-Well perhaps that was the man? A-Yes sir I remember that, and it was about '55.

105 Q-What did they call him? A-He called himself Potter Christ, but I don't know what he preached for I did not hear him preach, but I saw him once out here. He was driven out of the country.

I06 Q-Well what do you remember about that man? A-Well I only saw him out there.

I07 Q-Out where? A-Out this side of Warsaw. I had been sick and was out there, and on coming back we stopped at an old follows by the name of Carpenter and this old fellow was there, and they called him "Potter Christ", nd a few days after ~~words~~ that, I think it was Sunday, they said he was going to preach there,-or was going to preach down there some where, but I think they stopped him, and could not let him preach as he had intended. I think they did, but I don't know anything about it only what I heard, for I was not there when they stopped him, if they did stop him.

I08 Q-Was he one of the Latter Day Saints? A-I don't know whether he was or not. He may have been.

I09 Q-Was not he called a"Mormon" then? A-I don't recollect. He was another Christ I think he said. That is what he called himself,- another Christ, and that was all I know about it. I know that at the time I looked upon him as a kind of crazy follow who was not responsible, hardly, for what he said and did.

I10 Q-What was it he was called,-what was the name he went by? A-They said he called himself"Jesus Potter Christ". but I know at the time I did not couple him with the Mormons and never thought about it in that way, but he may have been.

III Q-Gerber, you say you do not remember at all? A-No sir, I do not remember him at all.

II2 Q-Were you ever at Far West? A-Yes sir, I was there.

II3 Q-You were at Far West then? A-Yes sir.

II4 Q-When did you go there? A-I went there I believe it was in I838. I think that was the time I went there,- It might not have been just at that time, but it was about that time I went there.

II5 Q-Under what circumstances did you go to Far West? A-Well I went with the militia men, for by that time I had got old enough to bear arms.

II6 Q-Well, what was the occasion of your bearing arms? A-Well there was a lot of troops or militia called out by order of Govener Boggs they said, and Captain Tom Wilson got up a company here as they said we had to go we went. That was the way I came to be at Far West. If it had not been for that I don't suppose I would have ever been there.

II7 Q-What did you go there for? A-Well I hardly know what we went for at that time, but it was to surprise the Mormons I think.

II8 Q-Now we will go back once more to this Temple Lot business. What was the character of that lot,-was it timbered or prairie land? A-I am not certain about that but I think it was timbered. I am rathed inclined to think that it was all timbered, or the greater part of it,but I think there was a clearing put on it at that time. *I think it was timbered for the whole country around here was timbered at that time.*

II9 Q-Primarily the country in this vicinity was timbered? A-Yes sir.

I20 Q-The prairie land at that time did not come any nearer the river than that? A-No sir. It did not come any nearer the river than out about a mile and a half or two miles from here,and that was the closest prairie there was.

I2I Q-Do you remember any thing about the Mormon people congregating on that tract of land on Sundays and at other times? A-Well I always under stood they did, but I did not see much of them,- I never saw much of them there.

106 Q-Well what do you remember about that man? A-Well I only saw him out there.

107 Q-Out where? A-Out this side of Warsaw. I had been sick and was out there, and on coming back we stopped at an old fellows by the name of Carpenter and this old fellow was there, and they called him "Potter Christ", nd a few days after ~~we~~ that, I think it was Sunday, they said he was going to preach there,-or was going to preach down there some where, but I think they stopped him, and would not let him preach as he ~~he~~ had intended. I think they did, but I don't know anything about it only what I heard, for I was not there when they stopped him, if they did stop him.

108 Q-Was he one of the Latter Day Saints? A-I don't know whether he was or not. He may have been.

109 Q-Was not he called a"Mormon" then? A-I don't recollect. He was another Christ I think he said. That is what he called himself,- another Christ, and that was all I knew about ~~him~~ it. I know that at the time I looked upon him as a kind of crazy follow who was not responsible, hardly, for what he said and did.

110 Q-What was it he was called,-what was ~~the~~ the name he went by? A-They said he called himself"Jesus Potter Christ". but I know at the time I did not couple him with the Mormons and never thought about it in that way, but he may have been.

111 Q-Gerber, you say you do not remember at all? A-No sir, I do not remember him at all.

112 Q-Were you ever at Far West? A-Yes sir, I was there.

113 Q-You were at Far West then? A-Yes sir.

114 Q-When did you go there? A-I went there I believe it was in 1838. I think that was the time I went there,- It might not have been just at that time, but it was about that time I went there.

115 Q-Under what circumstances did you go to Far West? A-Well I went with the militia men, for ~~as~~ by that time I had got old enough to bear arms.

116 Q-Well, what was the occasion of your bearing arms? A-Well there was a lot of troops or militia called out by order of Govener Boggs they said, and Captain Tom Wilson got up a company here as they said we had to go we went. That was the way I came to be at Far West. If it had not been for that I don't suppose I would have ever been there.

117 Q-What did you go there for? A-Well I hardly know what we went for at that time, but it was to surprise the Mormons I think.

118 Q-Now we will go back once more to this Temple Lot business. What was the character of that lot,-was it timbered or prairie land? A-I am not certain about that but I think it was timbered. I am rathed inclined to think that it was all timbered, or the greater part of it,but I think there was a clearing put on it at that time. *I think it was timbered for the whole county around here was timbered at that time.*

119 Q-Primarily the country in this vicinity was timbered? A-Yes sir.

120 Q-The prairie land at that time did not come any nearer the river than that? A-No sir. It did not come any nearer the river ~~than~~ than out about a mile and a half or two miles from here,and that was the closest prairie there was.

121 Q-Do you remember any thing about the Mormon people congregating on that tract of land on Sundays and at other times? A-Well I always under stood they did, but I did not see much of them,- I never saw much of them there.

I22 Q-Do you remember seeing them there on that land at any time?
A-I cannot say.

I23 Q-Well what is your best recollection about that? A-Well the fact is that I don't know that I did any more than other citizens I don't know that I saw any body there. I know that we have run over it us boys did at that time, and hunted rabbits there, I know that I have been over it often, time and again, that is the piece of ground you are talking about, and they always called it the TempleLot. I remember that.

I24 Q-When according to the best of your recollection was the time that that lot was called the "Temple Lot"?
A-Well it has been over since they had it, but I don't remember the year, or the time so as to speak definately as to the year. I know it was soon after we came here, and that is about all I do remember about it.

I25 Q-Has there ever been any time since that time, that you know any thing about that it has not been called the Temple Lot, and known as such? A-Well it has been called the Temple Lot and also Maxwell &Woodson's addition, for they cut it up into lots and made an addition of it, but that was a part of what was called the Temple Lot. I remember that it was made an addition of and was called Maxwell &Woodson's Addition, and they cut it up into town lots and sold them off. That did not take all of the old Temple Lot in, but the addition was a part of it I think.

I26 Q-How,- in what way is it known or designated? A-That was the way they designated it, for every body who lived here at that time knew where the Temple Lot was.

I26 Q-Is it not true that whenever this property was spoken of, at all times from 1830 or '31. down to the present time, it was spoken of as the Temple property, or Temple Lot? A-Well from the time they first got it till in I think in '30 or '32,- that was the time they got it I think in '30 or '32, or some where right about that time it was known that way.

I27 Q- How,- in what way was it known or designated? A-That was the way they designated it, for every body who lived here at that time knew where the Temple Lot was.

I28 Q-And was it known as the "Temple Lot"? A-Yes sir.

I29 Q-If a stranger should at any time during all these years,- had come to you, and asked you to point out to him, what was known as the "Temple lot," to what spot would you have taken him? A-To that same spot.

I30 Q-When you say the "same spot" what, what spot do you mean? A-The spot we are talking about,-the Temple lot where that little building now is.

I31 Q-That is where you would have taken him? A-Yes sir.

I32 Q-Have you also heard other citizens speak of this property from time to time, and describe it as the Temple lot? A-I do not know that I can call such an occurence to my mind at the present time.

I33 Q-I guess you do not under stand me clearly,-I want to know whether other people, besides your self in Independence know of it as the Temple lot or property? A-I suppose they do, but I do not know. I do not know what they say.

By Mr. Southern,-"I object to that as irrelevant and to all the other questions asked the witness on this line of examination."

By Mr. Traber,- "Well for your satisfaction I will state that all my questions may be considered as objected to,- not only what I have already asked, but what are to come as well,-the whole business". That is all I have to ask this witness".

Cross examination by Mr. Southern,-

I34 Q-Well Mr. Weston I will ask you what was called the Temple Lot? A-What is that?

I35 Q-What piece of ground was called the temple lot in 1830,'31. '32

I22 Q-Do you remember seeing them there on that land at any time?
A-I cannot say.

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I34 Q-Well Mr. Weston I will ask you you what was called the Temple Lot? A-What is that?

I35 Q-What piece of ground was called the temple lot in 1830,'31. '32

'33 and'34?A-Well after they bought it some where along in the early part of the'30's it was the piece of ground that is called the Temple lot now. I mean to say it was a tract of land of which that is a part.

I36 Q-That is it was a tract of ground,I believe you stated, that laid south of the Westport road, and pretty near south of the stone church that is built there now? A-Yes sir.

I37 Q-That is the piece of ground? A-Yes sir.

I38 Q-How many acres was there in it? A-I don't know how many acres there was in it, or whether it was laid off in a lot at all or not.

I39 Q-But they called it a lot then? A-I think they called it the Temple lot. I can't say though how many acres there was in it or whether it was laid off in a lot at all or not.

I40 Q-Well, did they call it a lot then? A-I think they called it the Temple lot, ~~but~~ but I always understood that the whole tract of land from away down there towards Chrismans or that factory there or up to the Westport road, and away down there, was called the Temple lot or ground. I remember at one time we went down there to view it, or to view some of it at one time. Mr. Max well and Woodson got old John Parker and me and Richard Pigall to do it.

I41 Q-To do what? A-They got us to view the ground.

I42 Q-Where? A-Well from that old blacksmith shop up there,- I do not know what they called it,-well all that south of it we viewed and appraised it at fifty dollars an acre, and the balance of it next to the Westport road I understood they were going to sell it for lots.

I43 Q-Then what you refer to was called the Temple lot, or Temple property,- or rather Mormon property was it not? A-We always called it the Temple lot.

I44 Q-Do you know that it went by that name generally? A-That is what I always called it,- I cannot say what other people called it I understood that all that piece of ground was called the Temple lot or property.

I45 Q-Well now are you sure that the whole of that property was ever called that, or was known by that appelation so to speak? A-I know what I always considered was the Temple property. I can speak for myself only, and don't know what other people considered was the temple property. I know in my own mind I always thought so, but I don't know what other people thought.

I46 Q-Now you spoke of a lagre body of land south of the Westport road? A-Yes sir.

I47 Q-What was that? A-Well that was all embraced in this same temple lot. It was all embraced in this same piece of ground that the Mormons had at one time when they were here. It was all Temple ground according to my under standing of it.

I48 Q-Do you know how many acres there was in that piece of ground? A-No sir.

I49 Q-Was it sixty or seventy acres or one hundred and sixty? A-I can't say, but there was quite a big piece of it. It run from the Westport road as I have said down to,or pretty near to to where Pacific Avenue is now. I think it did but I am not sure of that, but from the blacksmith shop that street run east and west, and on the south of that at the time we were viewing the land for Maxwell & Woodson we viewed that at fifty dollars an acre. We did that at the instance of Woodson & Maxwell,-and the balance of it south of that blacksmith shop,and up to the Westport road was to be

laid off in town lots, and they did do that.

I50 Q-You have seen Mormons on it have you not? A-On this land?

I51 Q-Yes sir? A-Well I have seen some shanties on it,and they were going to pull them done, but they would not let it be done.

I52 Q-Who would not let that be done? A-Some of the crowd that was along would not let the ones that wanted to do that, do it.

I53 Q-Do you.know whether the citizens of the town generally ever held picnics out there on that ground,or other gatherings on that ground? A-I do not know.

I54 Q-Aside from the Mormons I mean? A-If they did I do not know it.

I55 Q-You do not know,you say, anything about that? A-No sir, I am not a picnic man myself and if that was done I don't know anything about it. I did not notice that if it was done.

I56 Q-You were a boy at that time? A-Yes sir, and at that time picnics had not come in yet.

I57 Q-Do you know of any general gatherings out there of any kind or discription about that time? A-Well they hung a fellow for murder there once, and that was the most general gathering I ever saw there.

I58 Q-Where was that? A-I can't say just the exact spot it was, but it was there pretty close to the Temple lot. It seems to me that it was not very far from the street running down there from Pleasant Place. I think it was near that street there some where, but I said I could not point out the exact place. It was a little west of that I think.

I59 Q-well was it on the temple ground? A-I am not certain that it was but it was thereabouts.

I60 Q-Well how far was that from the Westport road? A-Where this fellow was hung do you mean?

I6I Q-Yes sir? A-Well it was about two-hundred or three hundred yards I suppose from the road to the place where they hung the man. I know they were there preaching and praying with him all day nearly.

I62 Q-Was that before the war? A-Yes sir, it was before the war.

I63 Q-How long before the war was it? A-Well it was some where about '58 I think. It was long about that time that that man was hung there. It might have been a little before that time. I was working for myself at that time, and I knew the man that was killed for which this fellow was hung. I knew the man that was killed very well,and it was a fellow named Hawkins,-the fellow that built the Hawkins mill, and the man that killed him was the fellow they hung out there.

I64 Q-And you say this occurance of the execution of this man out there was about I858? A-Yes sir, I think about that time,but it may have been later than that,-I might have been not far from '40 I think. I am not at all sure of the date, but it was some where along there.

I65 Q-Do you remember whether at any time, any of that ground out there that you speak of as being temple ground, was ever in cultivation? A-Well I don't know. If you call putting it in meadow cultivation I don't know about that. I think some of it it was in meadow at one time, but I would not call that cultivation hardly. Woodson took in some of it, and built a stone fence around it, and I think it was a meadow it was used for.

I66 Q-At what time was that? A-Well it was about '45 or some time along there. I remember at the time old John Parker was living

but it was right- there near the temple lot

and he and me valued it, and that was the time that Woodson had it

I67 Q-Did you ever remember seeing a fence running along the south side of the Westport road, enclosing this lot in controversy? A-I do not recollect anything about that until recent years. I know they have a fence there now, but I don't recollect of a fence being there until this fence was put there, still there may have been,- If there was I do not recollect it though.

I68 Q-Do you not recollect that at one time there was what was known as a worm fence all along the Westport road, embracing the whole distance of that lot on the south side of the road? A- I don't remember that but there might have been.

I69 Q-Did you ever see that land there in corn and pumpkins? A-Well I may have seen it, but if I did I have forgotten it.

I70 Q-I refer to a time along prior to the war? A-It might have been there all the time before that, but if it was I say I don't recollect it.

I71 Q-This is with reference as to whether it was bare ground or not? A-Well it is nice, pretty ground,-the finest piece of ground in the country I think.

I72 Q-Yes sir, I agree with you, Now you do not as I understand you state postively here, that all that piece of ground was timbered ground.- A-What is that?

I73 Q-You do not as I understand you you, I say, state postively here, that all that ground was timbered ground,-that is had timber on it? A-Well I could not say what it was, but my impression is that it was timbered land.I know though that that was the the general nature of the ground,-it had timber on it at one time but how much of it was timbered when they got it I do not know.

I74 Q-In '31 and '32 and '33,there was timber had been on the ground where what is called the Temple lot is now fenced,-there was timber then on that ground? A-There was,- there had been or was at that time, but I do not know about that either postively,for about that time I think they had cut it off or were cutting it off.

I75 Q-Where did they cut the fuel then,-what sort of fuel was used in this town at that time? A-Every body used wood for fuel in this country at that time, and the people in town got there fuel off this ground and the country round here,- for the country all round here at that time was timbered, and a person could go out almost any where and cut what wood he wanted.

I76 Q-Do you call to mind, or can you call to mind any Mormons who were here in 1834 engaged in some suit against citizens of this place for what occured on the street here in the way of outrages against these men? A-No I do not remember anything about that.

I77 Q-Do you say they were not here? A-No sir,they may have been here I say I don't remember anything about it if they were. I think at one time there came over a lot of them from Clay County, or Liberty, to have some law suits here,but I did not pay much attention to it, but I recollect seeing them here.

I78 Q-Or About what date was that,-about '34 or '35? A-It was about '34 or '35,-some where along there.

I79 Q-Well that is what I referred to,-Now was there some litigation about those times with reference to the abuse which these men had received? A- They came over here to have a suit on account of these outrages. They brought suit against the citizens here I think, and they came here to have a trial in the court, and there came some soldiers to protect them, and I recollect seeing them come in but further than that I did not care anything about it

and I did not go to see anything about it, for I did not care anything about it.at all.

I80 Q-You say there was soldiers came with them? A-Yes sir, to protect them as I understood it.

I8I Q-were these soldiers militia? A-No sir, they were United States soldiers, Now that is my impression,-and I.am not sure about that either,but that is what I think they were.

I82 Q-There was not very many of the soldiers? A-No sir.

I83 Q-Now was there any disturbance at that time with reference to the Mormons? A-No sir, Not at all,-not at that time. Nome that I know of.

I84 Q-Well that was in 1834 we will say? A-Yes sir, about that time I834 or '35.

I85 Q-Now from that time on up for twenty years, up to I854, was there ever any disturbances with references to the Mormons that might come in here or not? A-Not that I ever knew of.

I86 Q-Can you call to mind of any of the Mormons coming in here during these years? A-No sir, I don't remember of any of them coming in.

I87 Q-You do not call to mind anything of the kind? A-No sir.

I88 Q-Now you said there were certain outrages perpertrated upon the Mormons here in this city in I833? A-Yes sir.

I89 Q- And you went on and described xxxxx xxxxxxx at length these outrages as you saw them? A-Yes sir, to the best of my ability I did.

I90 Q-Now do you know anything about what was the cause of these outrages you spoke of? A-What is that?

I9I Q-Do you know anything about what was the cause of these outrages or disturbances? A-Well I know what was said to be the cause of the disturbances,-In buying property they would go to a fellow it is said,- I know of one particular case,- a fellow by the name of Baker he said so,- Baker said you might as xxx well sell, for if you don't sell it you will have to leave the country".Now that is the way it was, and it was these kind of things that brought up the trouble. Now I don't know anything about this of my own knowledge,-it is just hearsay,- what was told me.

Counsel for the plaintiff objects to the answer of the winess and moves xxxx xx court to xx exclude same from the record for the reasonx that it is hearsay.

I92 Q-Was there, or was there not some current reasons given at the time of the attackx upon the Mormons?

Counsel for the plaintiff objects to the question asked the witness on the ground xxxx and for the reason that it is xxxxxx incompetent, irrelevant and wholly immaterial,and hearsay, and improper cross-examination. A-What is that?

I93 Q-Answer the question,-you need not pay any attention to what these gentlemen say, for they are only availing themselves of their legal right to interpose their formal objection? A-Well state the question again?

I94 Q-Well the question,I asked you was, was there, or was there,not some common understanding, which accounted for the outrages you speak of as having been committed against the Mormons at this time? A-Well just what I told you was the first cause,- they said it was reported that the people would have to go and give their property up if they would not sell it. That seemed to be the chief reason for the expression of feeling made by the citizens.

I95 Q-What was that? A-Well because they said if the people did not sell their property they would have to leave anyhow. I don't know that they said that mind you, for I did not hear any of them sø state the fact to be,-that is I did not hear any of the Mormons make that statement or any thing like it, but it was said to be the case that they did talk that way. and that was one of the chief reasons for the feeling that sprang up here against them.

Counsel for the plaintiff moves the court to exclude from the record the answer of the witness, for the reason that it is heresay.

A-I don't believe there was anything in it myself, but that was the common talk about it.

I96 Q-Now Mr.Weston do you say that the citizens of this town generaly and the citizens of this vicinity, generally, were engaged in that tarring and feathering that was done there as has been testified to here? A-Well there was a good many around here at the time,-that is they were around where it was going on, but whether they were engaged in it or not I do not know. These rough characters that I told you about did the actual work, but these other people were around there and did not interfere with them in their work, and whether they were aiding and abetting them in their work I don't know. about that.

I97 Q-Is it not a fact that a great many citizens were there simply as spectators? A-I know I was there simply as a spectator and there was a good many other citizens there looking around,but these men seemed to be the active ones in the performance,-I can't say whether the others were there as spectators or not, but I assume that some of them were.

I98 Q-Do you know of any reason why Mormons would not have been safe here in I840 or '50 or '60, or at any other inter-mediate time?

Counsel for the plaintiff objects to the question asked the witness on thr ground that it is incompetent, irrelevant and immeterial, and not proper cross-examination.

I99 Q-Do you know whether or not they would have been safe here at any of those times? A-What times.

200 Q-In I840 or '50 or '60, or any inter-mediate time? A-Well I do not know as a general thing whether they would or not. There was some people in the community at that time you speak of that I have no doubt would have done them harm if they could, but I do not believe that the people of the community at those times would have countenanced any outrages on them,-as far back as I840 I do not think they would.

20I Q-How about as far back as I860? A-Well some of them I believe would,-I believe candidly that some of the hot headed ones would have been disposed to annoy them and persecuted them at that time, for the feeling had not subsided at that time. I think so because a fellow by the name of Rockland I think it was. At any rate some one attempted to assassinate Gov. Boggs, and it was said to be a fellow by the name of Rockland He was said to be the fellow that did it,and that got up another enmity against the Mormons.

202 Q-When was that? A-I don't remember the date.

203 Q-Well about when was it? A-I don't remember the date but it was some where along about I84I, and Govener Boggs lived here at the time.

204 Q-Well was there such a disposition in I855 or I860? A-Well I don't know about that. I don't think there would have been anything done to the Mormons at that time if they had come here but

as I said before there were people here who did not have any love for the Mormons,and are to this day, but I don't think the sense of the community would have tolerated any violence to them at that time, still it may be that if they had come back there would have been violence offered them.It is just this way that the people generally did not like them, but I don't think they would have hurt them if they had come back at that time.

205 Q-Have there not been more or less of the people that are called Mormons here since I865? A-I could not tell you, but I think they have been here more or less for a good many years. I do not pay much attention to these things, but I am under the impression that there has been some of them here since that time. I know that old Dr. McClellen and a good many others have been here for years, but how long they have been here, or when they came I don't know. I think,-

206 Q-Well about when did they come first,- when did they begin to return again? A-That is what I was going to tell you. I think it was after the war that they began to come back here again.

207 Q-Well do you think there was quite a number here in '70? A-Yes sir.

208 Q-Have they been increasing in number since that time? A-Yes sir, I think so.

208 I-2 Q-They were incresing in humbers you say? A-Yes sir.

209 Q-Have they been disturbed by rowdyism as a special class o f people or have any outrages been perpertrated upon them because of their religious belief, or from any other reason? A-If they have, I don't know it. I don't know of any thing of the kind.

209 Q-I believe you said there was a house,-that some one attempted or or was about to attempt to tear down a house in back in I834? A-Yes sir.

2I0 Q-Where was that that occured? A-That was not very far from where Mr. Warneke lives.

2II Q-Where is that? A-It is up near this Westport road on the south side of this temple lot or Mormon ground,- It is over at the south east corner like.

2I2 Q-It it east of the enclosure, or where the enclosure now is of what is called the Temple lot now? A-Yes sir.

2I3 Q-How much east of that is it? A-I don't know.

2I4 Q-Is it two hundred or three hundred yards east of that? A-Yes sir

2I5 Q-Was that house that was aptempted to be torn down on the temple grounds? A-I think it was.

2I6 Q-well what was it they wanted to do? A-They wanted to tear it down and Mr. Warneke would not let them.

2I7 Q-And what kind of a biulding was it? A-It was a little log build ing.

2I8 Q-Well now really in '3I and '32,or '33 I should say, when these outrages occured that you speak of,- I believe you stated there were some persons here that were Mormons that were not disturbed? A-You spoke of a amn by the name of Gilbert who had a store here? A-Well I don't know anything about him. If his store was disturbed I did not know of it anything about it, but there might have been a good deal done to it and I not know it.

2I9 Q-Where was the store? A-He had a store right over on the corner there about where that jewelry store is now.

220 Q-What kind of a store did he have? A-It was a dry goods store he had, I remember though that the Mormons had to get away at

as I said before there were people here who did not have any love for the Mormons,and are to this day, but I don't think the sense of the community would have tolerated any violence to them at that time, still it may be that if they had come back there would have been violence offered them.It is just this way that the people generally did not like them, but I don't think they would have hurt them if they had come back at that time.

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208 I-2 Q-They were incresing in humbers you say? A-Yes sir.

209 Q-Have they been disturbed by rowdyism as a special class o f people or have any outrages been perpertrated upon them because of their religious belief, or from any other reason? A-If they have, I don't know it. I don't know of any thing of the kind.

209 Q-I believe you said there was a house,-that some one attempted or or was about to attempt to tear down a house in back in I834? A-Yes sir.

2I0 Q-Where was that that that occured? A-That was not very far from where Mr. Warneke lives.

2II Q-Where is that? A-It is up near this Westport road on the south side of this temple lot or Mormon ground,- It is over at the south east corner like.

2I2 Q-It it east of the enclosure, or where the enclosure now is of what is called the Temple lot now? A-Yes sir.

2I3 Q-How much east of that is it? A-I don't know.

2I4 Q-Is it two hundred or three hundred yards east of that? A-Yes sir

2I5 Q-Was that house that was aptempted to be torn down on the temple grounds? A-I think it was.

2I6 Q-well what was it they wanted to do? A-They wanted to tear it down and Mr. Warneke would not let them.

2I7 Q-And what kind of a biulding was it? A-It was a little log building.

2I8 Q-Well now really in '3I and '32,or '33 I should say, when these outrages occured that you speak of,- I believe you stated there were some persons here that were Mormons that were not disturbed? A-You spoke of a amn by the name of Gilbert who had a store here? A-Well I don't know anything about him. If his store was disturbed I did not know of it anything about it, but there might have been a good deal done to it and I not know it.

2I9 Q-Where was the store? A-He had a store right over on the corner there about where that jewelry store is now.

220 Q-What kind of a store did he have? A-It was a dry goods store he had, I remember though that the Mormons had to get away at

that time, and get away pretty smatr too, and I know that if I had been one of them I would have thought a good ammy times over it before I would have come back again if I had had the experience thay had. Now that is my recollection about it.

22I Q-About what? A-About them having to get away in the way they did
222 Q-Who had to get away? A-The Mormons had to.

Witness fees amounting to $I,00 for one days attendance as a witness paid by plaintiff.

John H. Thomas being sworn on the part of the plaintiff,testified as follows,-

Direct examination by Mr. Traber,-

I Q-Your name is what? A-John H. Thomas.
2 Q-What is your age Mr. Thomas? A-I am sixty nine going on seventy.
3 Q-You are in your seventieth year then? A-Yes sir, I was sixty-nine the IOth day of last December.
4 Q-Where do you reside Mr. Thomas? A-I reside here in Independence
5 Q-In Independence, Missouri? A-Yes sir.
6 Q-How long have you resided in Independence Missouri? A-I moved here last fall was a year ago,- that is I built and was here all the fall.
7 Q-Did you ever live here at any prior time? A-No sir.
8 Q-You never lived here before this time? A-No sir, for I was afraid to come here to live.
9 Q-Where did you live in I834? A-In '34?
I0 Q-Yes sir? A-I lived in the state of Mississippi.
II Q-When did you leave the state of Mississippi? A-I came from North Carolina to Mississippi.
I2 Q-Well I don't care about that,-? A-I came from Mississippi up to Hancock County at Nauvoo in Illinois in the spring of '45.
I3 Q-That was the first time you came to Nauvoo? A-Yes sir.
I4 Q-How long did you remain there? A-I remained there until the spring of '46 at the time of the breaking up there.
I5 Q-What did you do then? A-Well we all left Nauvoo at the time of the breaking up there.
I6 Q-Were you a member of the church of Latter Day Saints at that time? A-Yes sir.
I7 Q-When did you become a member of the church of Latter Day Saints? A- I joined the Church of Jesus Christ of Latter Day Saints in I842 in Mississippi.
I8 Q-Well where did you go in I846? A-In I846 I went from Nauvoo in a pioneer company to open a road across the state of Iowa. At that time there was no settlement west of Nauvoo only for about fifty miles, and that was called Richard son's Point was the last settlement there in the State of Iowa.
I9 Q-What was the occasion of that? A-Of what? I don't know what you mean.
20 Q-What was the occasion or cause of your leaving Nauvoo? A-Well on account of mobocracy.
2I Q-And what was the occasion of your opening this road? A-Well we were drove out.
22 Q-Well what was the occasion of your opening this road? A-For the emigrants going west,-Brigham Young and his host.
23 Q-Was it for their especial benefit? A-Yes sir.

24 Q-And you were one of the company you say that went out to open this raod across the state of Iowa? A-Yes sir, I was one of the band of pioneers,-there was a company of one hundred able bodied men chosen. They were all young men and able bodied,and I was one of them, and they were sent out to open this road across Iowa for the emigrants on their emigration to the west. I was married then, but I was young.

25 Q-What were you to do? A-We were to go across the state and open road, and throw bridges across all the streams, that needed it across the state, and especially to establish a ferry across the Miasouri river into what was called xixxx winter quarters eight miles above Omaha, ow where Omaha now stands, for there was no Omaha there at that time,-it was the Omaha nation then.

26 Q-The Omaha nation of the Indians? A-Yes sir.

27 Q-What was known as winter quarters at that time was about eight miles north of where Omaha now is? A-Yes sir.

28 Q-Well where did you next go? A-Well I went from winter quarters in the spring of '47, after the spring conference there in '47 I left winter quarters and went from there to St.Joe.

29 Q-Where? A-I went to St Joseph, Missouri.

30 Q-What was the occasion of your going to St Joseph? A-Well I went down there to make a living for myself for I had about run out at that time.

31 Q-Well was that the only reason you had for leaving winter quarters? A-No sir.

32 Q-Well go on and state all the reasons you had for leaving winter quarters? A-That was one reason why I left winter quarters but perhaps it was not the main reason. I left winter quarters because I was satisfied in my own mind that everything was not as it should be.

33 Q-Well what was your reason,-just stae your reason for leaving winter quarters at the time you did and not your conclusions as to what you saw,- just stae what was your reason? A-Well sir I was satisfied that the twelve or what was there of them,-Brigham Young and Herber C. Kimball and Richards and the rest of the twelve that were there, had forsaken the original platform that we stood on,- that is the doctrine that is contained in the Bibl the book of Mormon and the Book of Doctrine and Covenants,- they forsook the doctrine taught in these books and treated them as not worth the ashes of a rye straw,and did not consider them to be as good as a last years almanac.

34 Q-What was the substitute they established for them, if any thing A-The substitute was to obey the council of the twelve in all things.

35 Q-Was the council of the twelve considered supreme? A-Yes sir,I went there to winter quarters with them but I saw how things were going on,and I got away as soon as I could, for I was to well posted, to follow them any further. I found out then for the fust time that what I heard was true and what they were doing, but the same thing was talked of for the first time I heard it there in Nauvoo in the spring of 1845.

36 Q-What was that talked of? A-Of Polygamy being praticed secretly amongst some of them,and I never found it out to be a fact until I got to winter quaters in '46 and '47, and I found it out then to be a fact. I had heard of it before, but that was the first time I found it out to be a fact beyond doubt.

37 Q-Now did you have any difficulty in getting away from there?

A- Well not particularily. I would if I had undertaken to go ~~xx~~ away ~~x~~ on my own hook,but the scheme I worked got me out of winter quarters without any special difficulty.

38 Q-Well how did you get away from winter quarters? A-Well I was very intimate with Brigham Young, and he claimed authority over the ferry that we had made there. I mean the ferry that we pioneers had built there the time that we were sent out from Nauvoo to build these roads that I spoke of, and to establish this ferry over the Missouri. Well when we came to the river and crossed it to winter quarters, Brigham Young then claimed jurisdiction over this ferry, and he would not allow any one to cross the river back on the Iowa side ~~xithout~~ without a permit from him, or without his knowledge. Everbody had to have a permit or his permission to cross the river. He said we could apostatise all we had a mind to, but the property that was once in the church never could apostatise so he would keep that. Well as I said being intimately acquainted with him, and being good friends, I went to him and told him I wanted to go down in Missouri,-or down into Egypt as we called it to St Joseph, for I was a carpenter and wages were good there, and I could make a good living,and I had run out of money and wanted a permit to go over the river on the ferry and go down to St Joseph. I made ~~x xxxxxxx~~ that request of Brigham Young, and after I was through he ordered Judd Grant his secretary, to make it out. for me.

39 Q-Who was this man? A-He was Judd Grant, and he was Brigham Young's secretary at that time, and did all his writing for him. I knew both him and Brigham Young right well, and in fact I was well acquainted with all the twelve that were there, and indeed I was [redacted] in a good many of their counsels and confidences, and that is how I came to get a little more intimate with Brigham Young than the generality of the people did, and had an understanding of what was going on a good deal better than many ~~xx~~ did that were there.

40 Q-Well now was it because of your financial condition, or was it because of the actions of the church that you left winter quarters as you did? A-Well I was going away any way. I had made up my mind to leave any way.I was going across the river some way or another, for I had made up my mind to leave any way, and run the risk but I staid until after the spring conference.

41 Q-When was that conference held? A-It was on the 6th of April the same time that we have our conferences now at the present time. The spring conferences have always been held at the same time I believe. Well at that conference ~~xx xxxxx~~ the main question at issue appeared to be that none of Joseph's family was along. At that time we understood and believed as we do today, that Joseph's family,- or the head of his posterity rather,- young Josrph should be the successor of his father, We understood that would be the case, and Brigham had made of his attempt to get any of them to accompany him a failure. He had offered inducements,- all that could be offered, and they would not go,

42 Q-Who would not go? A-Joseph's family,- none of them.

43 Q-Why? A-Well because they had no confidence in Brigham Young and another thing was that there was nothing to indicate that there was any need of going to California, and in the spring conference the old elders in the church were finding a good deal of fault, for they all believed universally that through Joseph ~~Smith~~ and his posterity was promised in the Doctrine and Covenants, had the authority to rule in power, ~~x~~ and would remain in the church as its head

going to California supposed then to be

until the coming of Christ as is set forth in the Doctrine and Covenants.,- as God had promised unto Abraham, so had he promised unto Josepk, that upon him and the head of his posterity should the power rest to lead the church. "In thee and in thy seed shall the kindred be blessed". Well as I ~~xkx~~ stated there was a great many of the minstry of the church ~~x~~ who were dissatisfied and gave expression to their dissatisfaction, and in that conference Brigham Young made the statement, and Herber C. Kimball and Dr Richards and the rest of the twelve that were in winter quarters were ~~xxxx~~ there, that they did not want any thing more ,s he stated it there, that they had talked it over,-for it had got noised abroad there and back in Illinois that the family was there,- and he said that he might just as well draw a knife and cut the boys throat, as to be talking of such a thing, for it was known in Illinois that that promise was made,-

44 Q-What promise do you mean? A-The promise to exalt him to the head of the church,- Brigham said we might as well draw a knife and cut the boys throat,-referring to young Joseph Smith,-as to let it get abroad that he was to be the head of the Church. He said that if that knowledge got abroad in Illinois that the promise was made, and the saints looked to such a thing being fulfilled, that they would put an end to the family.

45 Q-What family? A-Joseph's family.He said not to talk of such a thing or even think of it,for if the people back there in Illinois thought that the saints expected o, looked forward to the fulfillment of the matter they would put an end to the entire family, and so he said to publicly talk of such a thing would be like taking a knife and cutting their throats.

46 Q-Well now are you stating this from what you know personally?,- what you heard? A-Well sir, it is from what I heard personally for it was in the general conference that was held there in the spring in April at Winter quarters. Brigham Yong got up at that Conference and made the statement himself personally that no man could stand in Joseph's place,for he said he had seen him ordained and set apart to fill his fathers ~~xxxx~~ place, and that that place belonged to him by right,- and God would take care of him and bring him forward at the right ~~xxx~~ time,- there was no trouble about that at all.

By Mr.Southern,-"I have not been objecting to any thing that has been asked the witness,or to any of his answers,although in my opinion many of them are objectionable, for I supposed that it was understood that this was being taken in accordance with the terms of our agreement regarding objections to testimony entered into a short time ago, that ~~xxx~~ all your questions are objected to on the ground that they are irrelevant and incompetent."

By Mr. Traber,-"Yes sir, your objections can run to every question that I have ask~~xx~~".

By Mr. Southern,-"And in this case this testimony is objected to because it is hearsay".

By Mr. Traber,-" yes sir,and you can object to this or any other question on any ground concievable, if you choose to do so". A-I have stated just what I know personally myself,and ~~xxx~~ what I have stated is not hearsay. Hundreds of others were ~~xx~~ there at the same time and heard just what I have stated and a great many of them are living to day.

By Mr.Traber,-

47 Q-Well what were you going to say? A-I was going to say that when I got permission to cross the river that just suited me so I

struck out for St Joseph, I made up my mind then that I would go to St Joseph, Missouri, and I did go as soon as I could get ready to start, and it did not take me very long to start either for I was anxious to get away from the place.

48 Q-How long did you live there at St Joseph? A-I lived there from the spring of 1847 until'53.

49 Q-Where did you go then? A-In the spring of '53 about thirty-five or forty of us all moved up in Iowa together.

50 Q-Now you say"thirty-five or forty of us",what do you mean by that A-~~Well~~ I mean that in '53 I moved back up into Iowa.

51 Q-Well what do you mean by "us"? A-Old Latter Day Saints that went from Winter Quarters and from places in Iowa down there to St Joseph. They came from western Iowa down there to St Joseph about the same time I did.

52 Q-Did you maintain or have any organization in St Joseph? A-No sir

53 Q-Why not? A-Well there was several reasons why we did not do it. We were a little afraid to do that for there was a good many bitter enemies ~~in~~ of the Latter Day Saints there at the start. We held our meetings regularly after we had been there a while, and in time showed the people that we were honorable and were not afraid to work for our living, and in that way gained many friends there.We began by holding our meetings at private houses at first,-For example we would have a meeting say at my house,and then at an other mans house,and so on. Brother Hall, now a Bishop's agent in Council Bluffs was one with me.He is alive, but the most of them are now dead. We held our meetings every Sunday almost,-first at one house and then at another,- kind of secret meetings amongst ourselves they were.

54 Q-Then you had no public place of worship at that time? A-No sir.

55 Q-To what point in Iowa did you go? A-When we left St Joseph we went to Council Bluffs.

56 Q-What season of the year was it you went there? A-We went early in the spring and rented land there and made crops that year and in the fall we moved up over sixty miles above Council Bluffs.

57 Q-Did the whole ~~party~~ thirty five of you go in a body? A-Yes sir, from St Joseph we went in a body, and the most of us went in a body from Council Bluffs and settled in what ~~was~~ is now Montana County.

58 Q-Did you have a public place of worship at any of these points? A-Yes sir.

59 Q-Where was the first one? A-We had it in Council Bluffs, or in ~~the~~ the neighborhood around there. We held our meetings and read the books and gave our views about "Old Mormonism", as people call ed it,-

60 Q-What did you know,if any thing, at that time, about the Mormons intending to occupy lands here in Jackson County or here at Independence? A-Well there was a good many in St Joseph,- some pretty influential men too, who had lived here in this ~~city~~ vicinity. There was Middleton and Riley, wealthy ~~merchants~~ merchants who bought most all their goods in St Louis,and they came through here often going backwards and forwards, when they went through by land, and they got ~~acquainted~~ intimately acquainted with us, for they were very fine men, but did not belong to the church,-they did not belong to any church,- and they thought a good deal of the Latter Day Saints there in

St Joseph, for they had dealings with us and liked our way of doing business,and so they were a [redacted] friendly towards us quite
and they advised us not to let the people there in St Joseph know we were Latter Day Saints.

61 Q-Well that is not an answer to my question,-my question is what did the people know about the disposition of the people here towards the Mormons?,-I mean the people here at Independence? A-Well they knew a great deal about it,-by hearsay of course.

62 Q-Well what was it? A-This man Middleton I have spoken of who traveled through this country on his way to St Louis and returning,-and who talked a great deal with the people here I suppose, I asked him what he thought about the people down here,and he thought it would not be safe for a Latter Day Saint to come down here,and let the fact be known that he was a Latter Day Saint.

63 Q-Who was Middleton? A-Middleton & Riley,-these merchants I have spoken of.

64 Q-Where did he live? A-In St Joseph,Missouri.

65 Q-What was his religious faith, if he had any, and you know? A-He didn't have any. He belonged to no church,-neither one of them belonged to a church.

66 Q-Did you know anything about any possessions of the Mormons here at that time? A-No sir, not of my knowledge. I had no knowledge of my own about that,for I was not here at the time they were here you know.

67 Q-You did not know they owned any property here at that time? A-No sir, I did not know that they owned any property here at that time, but I knew that they had owned property here at one time, for I had met with a great many of them that had here, and who had owned property here, at one time.

68 Q-Well did you know that this part of the country had any particular attraction for the Mormons? A-Yes sir.

69 Q-Well what was it? A-Well the prediction was made in a revelation as is found recorded in our standard books,that it would eventually be a center stake or gathering point for all the Latter Day Saints. That revelation was in our books, and we believed it would eventually be a center place of gathering

70 Q-Now it is spoken of as a center place,-a center place because other places are called "stakes? A-Yes sir.

71 Q-It is called a center place,-and it is understood by your people to be a center place? A-Yes sir.

72 Q-Now tell us please,what you understand by a center place, A-Well, it was a center place because other places are called to be stakes you know. This This was to be the center stake of Zion, and there would be other stakes.

73 Q-Do I under stand you to say that it was supposed to be main and principle headquarters of the church? A-Yes sir. We believe it will eventually be, and all Latter Day Saints have always held to that belief, and hold it so yet. Wherever they are any where in the world they believe that. Where ever you will find a Latter Day Saint you will find that he holds to that belief.

74 Q-What do they expect from holding that position? A-Well they expect in the fulfillment of the prophecy of God, that he is going to gather his people together in the latter days before the coming of Christ, who is coming to gather his people and making a covenant with him who

commandments shall be worthy of the reward that he metes out to ~~them~~ they who keep his commandments and obey his words,-

they shall be gathered together, and this is appointed as the gathering place and central stake of Zion at which they shall gather.

75 Q-Well what is to happen while that is coming about? A-We look for a second coming of Christ,- a personal coming of Christ.

76 Q-Is that a part of the faith of all your church? A-Yes sir, all that I have ever met with yet, have been instructed in that belief.

77 Q-Well now if that was true, why is it that the gathering of the people at this place has been postponed to such a late date? A-Well it was on account of their neighbors getting uneasy,- getting jealous, seeing so many of the Latter Day Saints coming in here at Independence, and as most of the Latter Day Saints that came here were eastern men and women, and they were well educated people and their neighbors got jealous of them, for they were prospering wherever they were,-

78 Q-Well now hold on, for you are speaking about something that you don't know personally and that is improper? A-Well sir, while I wasn't here, I know the most of them that were here.

79 Q-You were not here yourself? A-No sir.

80 Q-Then you can not speak of anything of your personal knowledge based upon personal observation? A-No sir.

81 Q-Then of course anything you say is based upon general knowledge? A-Yes sir, my general knowledge, and from the publication of books and papers and such things, and from conversations I had with many of the Saints that were here.

82 Q-Well you may go on and tell why the coming of the Latter Day Saints to this place has been postponed to this late day? A-Well one of the causes is that their evelations show that they did not keep the commandments to begin with,- they did not keep them as a body of people.

83 Q-You say "they",- whom do you mean by "they"? A-The Latter Day Saints.

84 Q-Well which branch of them? A-There wasn't but one branch of them at that time.

85 Q-What time do you refer to? A-The time the Latter Day Saints were here.

86 Q-There was but one branch of them at that time? A-Yes sir, there was but one branch of them at that time for that was shortly after the church was organized, and a great many of them came directly from Kirtland, Ohio here, and there was a great many of them of course came from other places. There was a great many of them here at that time, but they had to leave, and very few, if any, of them ~~remained~~ have come back since.

87 Q-You mean of the ones that were here in the thirties? A-Yes sir.

88 Q-Well go on and state why they did not come back sooner? A-Well it was because of the influence or prejudice of the people against them generally,- the prejudice I might say, and the vicious spirit that was manifested. They had to leave on that account, and they dare not come back here to live, for there was no safety for them.

89 Q-Well is it true, or is it not true that they did fear a repetition of the outrages that were or had been perpretrated on them at an earlier date? A-Yes sir, they had fears of that of course, and I don't think from the knowledge of what happened here while they

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89 Q-Well is it true, or is it not true that they did fear a repetition of the outrages that were or had been perpretrated on them at an earlier date? A-Yes sir, they had fears of that of course, and I don't think from the knowledge of what happened here while they

were here that they were to be blamed for being fearful of coming back.They had fears of that violence of coursdand I do not think from the knowledge that I have got from people ~~in~~ that lived here in that time,-and I have mixed with them a good deal and got pretty well posted in regard to what went on here at that time,-II don't think from what I can learn that it would have been safe for them at any time until a few years back,-to have gathered here,-not since the rebellion,-

Cross examination by Mr. Southern,-

90 Q-That was in I865 was it not? A-Yes sir.

9I Q-It was? A-Yes sir.

92 Q-And it was not safe for them to be here at that time? A-No sir I did not think so. I know I came very near trading my farm for a place here in '66,and the man had to leave here to save his life, and I was afraid to trade with him.

93 Q-You were afraid? A-Yes sir, I was afraid to trade with him.

94 Q-Why were you afraid? A-well I was afraid to trade with him, for if I had traded with him I would have had to move here,on it and I was afraid to do that.

95 Q-The man had to leave here you say? A-Yes sir.

96 Q-That is the man whom you contemplated trading farms? A-Yes sir.

97 Q-Who was that man? A-well I don't know his name now. I don't remember his name.

98 Q-What did he leave here for? A-Well I don't know but I suppose it was because everything was cut up here in the war of the rebellion and he had to leave because he got into trouble with some of the factions here, for I understand they were a rough set around here at that time, or just after it. He was not a Latter Day Saint at all, and that had nothing to do with it.

99 Q-Then why do you mention this occurence as an evidence of hospitality against the Latter Day Saints? A-I just mention it to show the temper of the people, and show what they would do if a religious denomination should attempt to come back here ~~x~~ again, for at that time they were in the same mood or vicious disposition they had been before.

I00 Q-Then you do not want to create the impression that he left here in I866 because he was a Latter Day Saint,-that this man was forced to leave this country because of that fact? A-Oh no, no, for he was not a Latter Day Saint at all. I would have traded with him pretty quick, but I was afraid to come here, and I aint much of a coward either I don't think.

I0I Q-You are not? A-No sir, but I don't rush into danger if I can avoid it.

I02 Q-I believe you stated that you were a North Carolinan originally?

I0~~2~~ A-Yes sir, I was born and raised partly in North Carolina in Richmond County, and Rockingham was our county seat,and I moved from there to Mississippi in the fall ofI833.

I03 Q-Who,-what age were you then? A-I was then eleven years old.

I04 Q-And from Mississippi you said you came to Nauvoo? A-Yes sir.

I05 Q-What year was that? A-In I845.

I06 Q-In I845? A-Yes sir.

I07 Q-What year did you join the Mormons there at Nauvoo? A-I joined,- I came into the church in Mississippi in I842.

I08 Q-In what year did you become a member of their church in Nauvoo? A-Just as soon as I got there in '45.

I09 Q-How did you join the church at Nauvoo? A-I handed ~~my~~ in my let-

ter of removal and joined the church there at Nauvoo on that? There was nearly two-hundred of us ~~xx~~ in Knoxubie County, Mississippi,-that is not the name of the county, but for short we say"Knoxubie

II0 Q-Did any other Mormons come with you from Mississippi to Nauvoo? A-Yes sir.

III Q-How many? A-There was thirty-five or forty of us.Our teams took us to Memphis Tennesee, and then we took the boat from there to Nauvoo.

II2 Q-To whom did you apply for admission into the church at that ~~xx~~ time? A-No not to any body.

II3 Q-How were you admitted into the church? A-We just went to the clerk and handed in our letter,and that was all there was to it.

II4 Q-You handed in a letter to the clerk? A-Yes sir.

It being impossible to complete the taking of the depositions herein on this day, the further taking of the same was continued until Tuesday the 26th day of April I892 at the hour of ~~I0~~ 10 o'clock A.M., then and there to be continued at the time and place in that behalf ~~xxxxxxxxx~~ first aforesaid.

Now on this Tuesday the 26th day of April I892, the same being the day to which the further taking of depositions here in was continued as aforesaid, at the hour of 10 o'clock A.M. pursuant hereto as aforesaid, and the further taking of the depositions herein was continued pursuant to adjournment.

John H. Thomas resuming the witness stand,testified as follows,in cross-examination,-

By Mr. Southern,-

II5 Q-At what time was it if you remember that you handed in your letter to the clerk? A-It was in the spring of I845.

II6 Q-What time in the spring if you remember? A-The first of April.

II7 Q-I used the term "Mormons" in a question back there,which the Notary has been kind enough to read to me. Now I used that term for the sake of conveinience as you will understand,and not as a matter of reproach you understand, and because I wanted to give you an opportunity of stating just what you called yourself,-that is the ones that came up with you to Nauvoo at that time? A-Well that was the name.

II8 Q-That was the name? A-Yes sir.

II9 Q-Now is that the full and complete name by which you were known at that time? A-Wellno,- well yes, as far as the members were concerned it was. It was as far as the members were concerned"Latter Day Saints".It was called the "Church of Jesus Christ of Latter Day Saints". That was the name the church went by then as it is to-day,only now it is called"The Re-organized church of Jesus Christ of Latter Day Saints". That was the title of the church when I came to Nauvoo,but the members of the church amongst themselves called themselves the "Latter Day Saints",or"the Saints".

I20 Q-Where are the certificates that you filed there at that time with the clerk? A-~~I don't know~~. A-Where are they?

I2I Q-Yes sir, if you know? A-I don't know.

I22 Q-Have you ever seen them since? A-No sir,for I never had any occasion to call for them.

I23 Q-Who was the clerk at that time if you remember? A-I dont know or remember who ~~he~~ was the clerk at that time. He was a stranger to me,and I don't know his name.

I24 Q-Do you know what became of him? A-No sir, not generally, but I think he went to Utah though.

I25 Q-To refresh your recollection or memory,-I will ask you if his ~~x~~ name was Williard Richards? A-I could not say whether he was or not,-that is he wasn't in the office when I was there I don't think, but he might have been.

I26 Q-On what occasion after you arrived there, was the first time you attended any public gathering of the people or meeting of the church,-I refer not to the time you arrived at Nauvoo from Mississippi,- the first occasion after you arrived? A-It was in April,-in the spring,-the 6th of April in Nauvoo.

I27 Q-That was the first time you attended any public meeting or gathering of the church? A-Yes sir, it was at the conference and got there two days before the conference which is held in April.

I28 Q-What sort of a meeting was that? A-It was what they called a ~~x~~ General Conference.

I29 Q-Do you remember who presided over that conference? A-Yes sir.

I30 Q-Who was it? A-Brigham Young presided over that conference.

I31 Q-Was there a large attendance of the members of the church? A-Yes sir, pretty ~~xxxx~~ large.

I32 Q-There was a large attendance of the membership of the church? A-Yes sir, pretty large.

I33 Q-And Brigham Young presided you say over that conference? A-Yes sir.

I34 Q-At what place was the conference held? A-It was held in Nauvoo, in the city of Nauvoo on what was called the "Temple block". near the temple there in a grove, ~~x~~ for there was no house big enough to hold the people that were there, and so it had to be held out doors.

I35 Q-You have seen large crowds of people together in your life, have you not? A-Yes sir.

I36 Q-About how many people would you suppose were there participating in the conference? A-Well I couldn't tell you anything about that.

By Mr E.L. Kelley,- "We want the record to show that we object to all these questions as immeterial and not cross-examination, for we did not enquire into anything of this kind."

By Mr. Southern

I37 Q-You do not know anything about the number of persons that were present then? A-No sir.

By Mr.Traber,-"I suppose we might as well consent to an entr y being made in the record at this point that will be wide ~~xxxx~~ enough and broad enough to cover all these objections".

By Mr.Southern"Yes sir, that is best, but really I thought our stipulation called for that".

By Mr. E.L. Kelley,-"Well I don't think it does, and ~~in~~ any event I prefer that our objections go in specifically. The stipulation don't provide for any objection of that kind,but we can have an agreement at this time the same as we had ~~xxxxxx~~ Saturday".

By Mr. Southern,- "Well let it be stated there that instead of particular objections,-that all the questions propounded to this witness on the cross-examination shall be considered objected to on the ground of irrelevance,incpmpetency,and not cross-examination".

The foregoing statement of for all grounds of objection to the evidence offered in this case is consented to by both Mr. Traber and Mr. E.L. Kelley of counsel for the summer.

I38 Q-How long did you remain at Nauvoo before you left there for any considerable time? A-Well we got there in April,-I think the 3rd day of April in 1845, and in '46 why I left Nauvoo

what I have already told you.
I39 Q-No sir I beg your pardon, you did not answer that question to me for I have not ask you the question Before this time,- Now you left Nauvoo in I846? A-Yes sir.
I40 Q-In what time in I846 did you leave Nauvoo? A-In the spring.I think it was in February I846 that we left Nauvoo on that business.
I4I Q-I believe you stated on your examination in chief that you went some where on that occasion. Now where was it you went? A-We went across the state to open up the road for the emigranbs going west.
I42 Q-And when did you say that was? A-That was in I846,- in the spring of '46 was when we started.
I43 Q-Did you go alone? A-No sir.
I44 Q-Whom did you go with? A-There was quite a large company of young able bodied men went.
I45 Q-Well how many was there in the company? A-There was one hundred of us.
I46 Q-Who sent you? A-Well the church there at Nauvoo sent us,-the authorities there of the church at Nauvoo sent us out to do that work so that the emigrants on their way west could find a road prepared for them.
I47 Q-You say the authorities of the church sent you? A-Yes sir.
I48 Who were the authorities of the church? A-Brigham Young and Herber C. Kimball,and all the twelve you might say without mentioning all their names. In the council held as I stated the other day,and if I did not so state I intended to do so,- Well in the council that was held in the spring after I got there at Nauvoo first it was decided to leave Nauvoo,-the time was set to leave in the spring,just as early as we could open the road and brigde the streams all across the state of Iowa.
I49 Q-Well there is a question I want to ask you and that is in regard to the question as to whether or not you got your endowments before you left Nauvoo? A-Well I went through what they called an endowment there in the temple in the winter of '47,
I50 Q-In the winter of what year,did you say~~x~~ "'47"? A-No that was a mistake,-I meant the winter of,-let me see,-
I5I Q-Was it I845? A-Yes sir the winter of '45. I only got there in the spring of '45, and it was in the winter of '45 after I got there or the first ~~x~~ part of '46,-it was the first winter after I got there any way. We left Nauvoo on that trip as I stated the other day I think in February,- for we crossed the river on ice and crossed over into Iowa, and stayed there camped ~~xxx~~ until in the spring,- in March, the first of March ~~xxx~~ when we started on that journey.
I52 Q-How long were you engaged in making that trip across the state of Iowa from Nauvoo to what you call Winter quarters? A-Well I don't know just the length of time we were on that trip.
I53 Q-Well what time did you arrive at what you call or designate as "winter quarters"? A-Well it was along about the first of July or the last part of June,-that is when some of us were making preparations to return after our families. That is one reason I know it was about that time,but I can't give the exact time and there was a goverment officer there calling for vloum'eers to go to Mexico, and one of my brothers and my cousins, or one of them, volunteered to go, and they raised five-hundred men in that way there, and on the fourth of July they raised the United States

flag right below where Council Bluffs is now on a high knob that was there.

I54 Q-Who did that? A-United States military officers they were there and did that. I forget the officers name that did that.There were several of them there, and I think Kearney was one of them.

I55 Q-Well did you at that time on your return, go on to Omaha? A-Omaha was not in existence then, but I went on to winter quarters.

I56 Q-Well did you not state that ~~xxxx~~ that was where Omaha is now located? A-No sir. It is a place called Florence now.

I57 Q-I thought you stated on your direct examination it was where Omaha now is? A-No sir. I stated that it was where was known in those days as the Omaha nation, and really it was through their permission that we got to stay there that time in winter quarters,

I58 Q-Well I understood you to say the other day that you remained there a while and then returned to Nauvoo? A-Yes sir, and that is what I said to-day too.

I59 Q-What time did you leave there on your return to Nauvoo? A-I can't say exactly as to the time but ~~x~~ it was right away ~~xxx~~ though. I stayed there but a littl e while before starting upon my return to Nauvoo. Right immediately after those officers were calling for volunteer s to go to Mexico.

I60 Q-Was it in the summer? A-It was in the summer,-it was in warm weather I remember that.

I6I Q-Did you return to Nauvoo alone? A-No sir.

I62 Q-Who went with you? A-There was three of us went together, that had families back there. We took a wagon and horse team and went back to Nauvoo and help my father fit up- for at that time it did not take me long to get ready as I has only a wife and one child at that time. And I left them there with my father when I left in the spring.

I63 Q-What time did you arrive in Nauvoo? A-On our return do you mean?

I64 Q-Yes sir, after you returned from the point where you had established winter quarters as you called it. what time on your return did you arrive in Nauvoo? A-It was some time in the month of July.

I65 Q-Then what did you do? A-We fitted up and started again just as quick as I could get ready to do so.

I66 Q-Where did you go? A-I went across the state of Iowa in winter quarters in Nebraska,- It was in the Omaha nation at that ~~xxx~~ time but it is called Nebraska now.

I67 Q-Who went with you? A-Oh, my father and family. My sisters, brothers, wife and child,and quite a company of us. In fact there was companies all the way through clear across the state, for we never stopped a night alone.

I68 Q-Did you report to any body after you got back to winter quarters A-No sir.

I69 Q-You were not required to do that? A-No sir.

I70 Q-Now you ststed the other day that you were personally acquainted with Brigham Young? A-Yes sir,I was well acquainted with him.

I7I Q-Was he there then? A-No sir he was on the road when I turned back, for I met him and most of the twelve as I was returning I met a part of them any way.

I72 Q-Well at what time did your acquaintance date with Brigham Young? A-~~X~~ Sir?

I73 Q-From what time did your acquaintance with Brigham Young date? Q-What time did I get acquainted with Brigham Young?
I74 Q-Yes sir, what time did your acquaintance begin with Brigham Young? A-When I first went to Nauvoo.
I75 Q-And when did you say that was? A-I first went to Nauvoo in the spring of '45.
I76 Q- And that was the time you first became acquainted with Brigham Young? A-Yes sir. I never met him before that time.
I77 Q-And then you knew him also at winter quarters? A-Yes sir.
I78 Q-You knew him there?. A-Yes sir, and I lived right close to him there at winter quarters.
I99 Q-Did you know him there they first time you went there, or the second time or both times? A- I knew him before we went there at all.
I80 Q-How long ~~xx~~ did you stay there at winter quarters? A-The first time I went there to winter quarters was with a band of pioneers, and Brigham Young was not there at all that time.
I81 Q-Well how long did you stay at winter quarters? A-At winter quarters,- did you ask me how long I staid there?
I82 Q-Yes sir? A-The first time?
I83 Q-No sir, the second time? A-The second time?
I84 Q-Yes sir? A-I stayed there until the spring of '47.
I85 Q-And you got there in the fall? A-We got there in the winter.
I86 Q-In the winter of '46? A-Yes sir.
I87 Q-And you stayed there until the spring of I847? A-Yes sir.
I88 Q-And then you left I believe you said ? A-Yes sir, then I moved down to St Joseph.
I89 Q-And where from St Joe did you go? A-Then I moved again back up into Iowa.
I90 Q-When did you move back to Iowa? A-In '53 I moved back into Iowa again. There was about thirty of us went up together.
I91 Q-You said you saw the twelve at winter quarters? A-No sir, I said I saw some of them there.
I92 Q-Well state who of the twelve you saw at winter quarters,- give their names? A-The twelve?
I93 Q-Yes sir? A-Let me see,- that was Brigham Young, Heber C.Kimball, Dr, Richards, Jojn Taylor, Amasa Lymen, Geo, A. Smith, -Did I mention Orson Hyde?
I94 Q-No sir? A-Well there was Orson Hyde too?
I95 Q-Did you mention Heber Kimball? A-Yes sir I mentioned Heber C. Kimball.
I96 Q-Was Wilfred Woodruff there also?. A-Yes sir Wilfred Woodruff ~~xx~~ was there, we went with him.
I97 Q-Was Orson Pratt there also? A-Yes sir,- Orson Pratt was there.
I98 Q-Or Parley Pratt?~~xx~~' A-Yes sir it was Parley Pratt,-I mean,- not Orson Pratt but Parley Pratt I mean,- he was the Pratt that ~~xxxxx~~ was there. I never saw Orson Pratt but I have ~~xx~~ heard of him.
~~I22~~
I99 Q-You say you never saw Orson Pratt? A-No sir.
200 Q-Now do you claim,- do you remember any ~~xx~~ others of the twelve that were there in winter quarters? A-No sir I do not remember any more,but there might have been others.
20I Q-Now who of the twelve were not there? A-Oh there was some of them were not there. There was the one that died down in Texas, I know his name well but cannot think of it just at the present time.
202 Q-Was it White? A-White, I knew him well by reputation but I ~~x~~ never saw him.

203 Q-Do you know whether or not Orson Pratt was one of the apostles?
A-Orson Pratt?
204 Q-Yes sir,- Do you know wh ther or not he was one of the opostles?
A-Yes sir, he was one of the apostles.
205 Q-Well now what ~~xinx~~ year did you say this was?
I847.
205 I-2 Q-This was when you were at winter quarters? A-Yes sir.
206 Q-Did you see anything of the church records? A-No sir.
207 Q-Did you not see anything of them? A-No sir, I had nothing to do with the church records. I had nothing whatever to do with them, and I did not see them. That is I had nothing to do with what I call the church records. But I have of course seen the published books of the church, which contained some of the records.
208 Q-What kind of records? A-Records of the proceedings of conferences and such as that.
209 Q-Did you know Charles C. Rich? A-Yes sir.
210 Q-Was he there? A-Yes sir.
211 Q-Was he one of the apostles? A-No sir, not at that time.
212 Q-What was he? A-Well he was,- I could not say for certain what he was, but I think he was one of the apostles I mean to say I think he was one of the ~~x~~ high priest.
213 Q-He was one of thw high priests? A-I think that was the office he occupied, but I would not certain that it was that.
214 Q-Now you have stated here that you heard of some merchants, in St Joseph Missouri talking about the condition of affairs in Jackson County? A-Yes sir.
215 Q-Who did you say that was? A-I said it was Middleton & Riley two persons who were merchants in business there in St Joe as partners. And they carried on a large business there.
216 Q-Well what was it they said? A-Well they said they thought ~~xt~~ it was not safe for Latter Day Saints to settle in this part of the country, or come down here. They said that they thought the feeling was against such a thing, It would not be safe for the saints to do so or to attempt to do so.
217 Q-When was that? A-Well it was from '49,- I got acquainted with them in the spring of '47, and ~~x~~ I was acquainted with the of them until the spring of I858, but the times they told me that was from '49,-say until I left there in the spring of '53.
218 Q-Can you call to mind any body else that you talked with about the same matter? A-What is that?
219 Q-I ask you if you could call to mind any body else that you talked to about the same matter? A-About what matter?
220 Q-About the danger that would attend any of the Latter Day Saints as you term them, if they would attempt to establish a residence in this section of the country? A-Yes sir I talked with a number of people about St Joe there,- old settlers that lived up there.
221 Q-Pldase state their names if you can? A-One was Dr. Thompson and lawyer Thompson and Jeff Thompson,- I was intimately acquainted with him, for he was a young man like myself.
223 Q-What did they know about it? A-Well they were of the same opinion about Latter Day Saints living in this country, or settling here, they thought it would be dangerous for them to attempt to do so.
223 Q-You inquired of them in regard to that? A-Yes sir.
224 Q-What made you inquire about that? A-Well it was natural that I should inquire, I was a Latter Day Saint myself and I knew a great many of saints that had lived here, and they had told me about there experience here, and it was natural that I ~~xxx~~ should

like to know about how the people felt down here towards the Latter day Saints.
I had heard a great deal about this place and seen so many of the people that belonged to the church who had lived here, and had to leave here, and I knew all about the circumstances of their being drove out of here and everything of that kind and this being called a central stake or central place or location for the gathering of the saints, why for that reason I was interested in the matter, expecting the time would ~~eec~~ come when it would be opened for those that wanted to settle here could do so and they would be protected by the law in doing so. This young Thompson I told you about,-not the lawyer or the merchant,- he was a surveyor and was one of the surveyors that surveyed out the Hannibal and St Joseph railroad, and he was a man that led a company of plunderes or robbers during the war of the rebellion.

225 Q-Who was that? A-That was young Jeff Thompson and I was well acquainted with him,-

226 Q-Do you know that he led a company of plunders or robbers, only from heresay,- I had that from a lot of people who were well acquainted with him.

Counsel for the plaintiff objects to the answer of the witness on the griund that it is not respons ive to the question, and is a voluntary statement of the witness, and something that he does not know of his own knowledge.

227 Q-Well I want to know if you do not know that just like you do a great many other things regarding which you have testified here to day? I s not a great many things that you testified to here to-day, and ~~xxxx~~ o n your direct examination a few ~~years~~ days ago,- something that you have heard and do not know of your own knowledge. Is that not the way,- you know these things from common report that you know a great many of these things that you testified to on your direct examination? A-No sir, I dont know that it is, for when it was common report I generally stated it that way. Things that I did not personally know of my own knowledge I so stated I believe, but when I got it from my personal friends it was different and I stated it so.

228 Q-Is it not a fact that you know about the reputation of things here in Jackson County , in the same way that you know about Jeff Thompson's conduct during the war? A-Yes sir of course that was the way I knew about him, for I knew it from good reliable men that I was well acquainted with. This is the first time sir that I have been on the witness stand in a case like this, but and what I know I tell you, and what I don't know of my own personal knowledge I tell ~~xxxx~~ you where I got my information.

229 Q-In your direct examination you said something about a state ment of Brigham Young as to the bible and book of Mormon being not worth a rye straw, did you not? A-Yes sir I said in their publication of papers they showed that they did not value the bible, or the book of Mormon or the Doctrine and Covenants any more than that. I said something like that any way.

230 Q-Where was that? A-In their publications.

231 Q- You saw that in their publications? A-Yes sir. I took the Utah papers all the time, from the beginning up to the present time.

232 Q-And that is how you know it? A-Yes sir and from hearing of it from people that were present when he said, it, and seeing it in

I have been on grand juries and petit juries but this is the first time I have been on the witness stand in a case like this,

his published sermons, That is a pretty good authority for it I think when ~~good~~ people that were present and heard it t ell me so, and I see it also in his sermons as they were published.

233 Q-Where did you see it in his published sermons? A-In the Utah church papers.

234 Q-And that is how you know it? A-Yes sir,and I heard him say he was a bible himself,-

235 Q-Well that is all I have to ask the witness,-?

Redirect examination by Mr. Traber,-

236 Q-When did you first learn about any endowments in the church? A-About what?

237 Q-About endowments in the church? A-That was after I went to Nauvoo in I845.

238 Q-How long after you first went there did you first learn about endowments? A-It was in the spring of '45 that I first heard of it. That was when I first read of it,- I mean when I first heard of it,but I have run across the church records of endowments given in Kirtland in the early days of the church when the temple was built in Kirtland.

239 Q-Now what endowments do you refer to,-what do you understand by endowments in the church at that time? A-What do I understand by endowments?

240 Q-Yes sir? A-What I understood by endowments,-what it should be,- would be the teachings and instructions from the ceremonies,- I mean the instructions delivered from God through the sermon of his prophets and apostles. That would be an endowment in the manner in which wisdom would be given to the Saints ~~thruu~~ through the ministry of the church that were going to be sent out to the nations of the earth to preach the gospel unto all who would hear. It would be the special gift of the Holy Ghost and the Spirit to such to enable them to administer the Gospel in power.It was instructions given to the ministry of the church more particularly.

24I Q-Of what did those endowments consist? A-They consisted of the Spirit of God being given to the prophet and to the officers of the church and ministry, and instructions to send them out to prech in the fields and labor in the interests of the church wherever they would be called to labor, and to the end that sucess would crown their efforts. They were to be sent to the different nations of the earth by a special revelation.

242 Q-Do you mean such an endowment as that which was had on the day of Pentecost? A-Yes sir, The same kind of an endowment.

243 Q-Was it accompanied by secrecy? A-No sir, I do not consider there was any secrecy in endowments from God.

244 Q-That is all?

Re-cross examination by Mr. Southern,-

245 Q-You say there was no secrecy? A-In what respect? 246 Q- In answer to a question asked you by Mr Traber you say there was no secrecy in the endowments? A- Yes sir.

X247 Q-Will you please state how they were conducted? A-I mean what I understood to be the endowment in Kirtland administered in ~~tx~~ the temple there.

248 Q-In Kirtland? A-Yes sir, in Kirtland, Ohio.

249 Q-Well I am talking about the endowment at Nauvoo? A-Well that is different.

250 Q-That is different? A-Yes sir. That was different.

251 Q-Well what was that?

Counsel for the plaintiff objects to the question asked the witness

on the ground that it is irrelevant and immeterial, and not proper re-cross examination.

252 Q-Well I want to ask you this question. You were asked whether the endowments at Nauvoo that you took were secret ones? A-What is that?

253 Q-You were asked whether or not the endowments ay Nauvoo that you took were secret or not?,-~~xx~~ or whether there was any secrecy about it?

By Mr. Traber,-"I asked him generally if they were secret".

By Mr. Southern,-

254 Q-Well I want to know what they were? A-Do I understand from this that you mean the endowments that were given or received at Kirtland Ohio?

255 Q-No sir, I am asking you about the endowments you took at Nauvoo what were they,-what were these endowments that you took at Nauvoo? A-Well I don't know that it would be interesting for me to state what they were.

256 Q-Well state what they were and we can judge whether or not the recital is interesting ~~or not~~? A-Well I don't know as I can do it.

257 Q-Well if you have good reasons to decline to state what they were you may say so? A-Well there was really nothing to state about it. I am not afraid to state it so far as that is concerned. But as far as I understand the matter of endowments in Nauvoo was a different thing altogether from the endowments ~~xx~~ in Kirtland Ohio.

258 Q-Well now I will ask you this question and you can answer it or not just as you ~~xixx~~ see fit. If you decline to answer it you can say so. What were the endowments given at Nauvoo,- Now if you do not wish to answer that question say "I decline to answer the question", and if you wish to state it, state what they were?

By Mr. E.L. Kelley,-"Let the records show that our objection to that question is that it is incompetent, irrelevant and immeterisl, and something that happened after 1844, and then the witness can take his choice,and answer it or not just as he wishes to do".

A-The long and short of it is that we do not accept that organization under Brigham Young after 1884.

By Mr. Southern,-

259 Q-Well you seem to have accepted it? A-Well perhaps I did in ~~xxx~~ part, but I did not stay with it any longer than I had to when I found out what it was.

260 Q-Well that is all? A-Is that all?

261 Q-Hold on there is one more question,-Are you at the present time a member of The Re-organized Church of Jesus Christ of Latter Day Saints? A-Yes sir.

262 Q-You are at the present time a member of that organization? A-Yes sir.

263 Q-When did you become a member of it? A-I became a member in 1859

265 Q-That is all.

Witness fees $4,50 paid by plaintiff

By Mr. Traber,- "We now offer in evidence paragraph one of ~~xxxth~~ section Twenty seven of Exhibit E, page 154, the same being a revelation given in Zion, July 1831.

The following is a true and accurate copy of the paragraph above offered in evidence, to wit,- "Hearken, O ye elders of my ~~xxx~~ church saith the Lord you God, who have assembled yourselves

my commandments,in this land which is the land of Missouri, which is the land which I have appointed and consecrated for the gathering of the Saints; wherefore this is the land of promise ,and the place of the City of Zion. and thus saith the Lord you God,if you will receive wisdom, here is wisdom. Behold the place which is now called Independence, is the center place and the spot for the temple is lying westward upon a lot which is not far from the Court House,wherefore it is wisdom that the land should be purchased by the Saints; and also every tract lying westward, even unto the line running directly between Jew and Gentile. And also every tract bordering by the prairies, inasmuch as my deciples are enabled to but lands. Behold this is wisdom that they may obtain it for an everlasting inheritance".

By Mr. Traber,-"For the purpose of offering in evidence certain portions of a book which I now hold in my hand, we would like to have it marked as an exhibit, the title page of which is as follows,-"The spiritual wife system proven false, and the true order of church disipline illustrated by Granville Hedrick.Bloomington, Illinois. W.E.Foote's power press printing house. I856.

The book above referred to, is marked "Exhibit W.J. M. Orr".

By Mr. Southern,- "To these exhibits,-or to the last three exhibit offered in evidence the defendents offer their objection on the ground of irrelevancy, and because the books from which they have been taken have not been identified as the law requires, and because none of the extracts offered in testimony or in evidence have been placed in the hands of the defendent or his counsel so they may examine them with reference to this case".By Mr. Traber,-"The plaintiff now offers the defendants or any of them or their counsel or attorney the privelege of examining any books offered in evidence by the plaintiff, and any all parts of the books so offered".

By Mr. E.L. Kelley,-"Do you wish to examine this book marked exhibit "W" now"?

By Mr. Southern,-"He(the Notary) has made the entry there".

By Mr. E.L. Kelley,-"Let the records show that we offer the exhibi to the counsel for the defendant,-this exhibit "W", and other ,-and he declines to examine them".

By Mr. Southern,-"Let me see that a moment".

Counsel for the plaintiffMr. E.L. Kelley hereupon hands counsel for the defendants the bok marked Exhibit "W".

By Mr. Southern Defendant further objects to the use in this cause of Exhibit"W" entitled "The Spiritual Wife system proven false, and the true order of church disipline illustrated by Granville Hedrick", published in I856 on the ground that it does not pertain to the organization of either the plaintiff or defendant in this case,and is representative only of the opinion of its author".

By Mr. Traber,-"We now offer in evidence from this book,-"

By Mr. Southern,-"Can you state for what purpose?"

By Mr. Traber,-"Yes sir, we can state for what purpose,-We offer exhibit "W" in evidence for the purpose of showing what was recognized as the true name of the church by the author Granville Hedrick, and also for the purpose of showing what book of Doctrine and Covenants were then recognized,-at the date of the publication of this work in I856".

By Mr. Southern,-"To which offer the defendants object, because it has not been shown that Granville Hedrick was qualified to speak on the matters for which this book is offered in evidence".

By Mr. E.L. Kelley,-"We have not got through with this offer yet colonel".

By Mr. Southern,-"Well I thought you were through,but if you are not I will wait until you get through".
By Mr. Traber,-"And also for the purpose of showing the doctrinal views of the author at that date. The complete preface is offered, pages 3,4, and 5."
By Mr. Southern,-"Defendant objects to the ~~xxixxxxxx~~ testimony offered because it is not of importance in this case that Granville Hedrick taught or believed in 1856;and because it has not been shown by any testimony in this case that Granville Hedrick was qualified to speak as an expert or other wise, as to the matters contained in the extracts offered in evidence; and because the position and doctrines of the defendant church is stated in the bill and is admitted by the plaintiff,and are not at issue in this case".
The preface of Exhibit "W", offered in evidence from pages 3.4,and 5 there of, ~~xx~~ is in words and figures as follows,- to wit,-

~~PREFACE~~.

P R E F A C E.

In presenting this little volume before the Church of Jesus Christ of Latter Day Saints, it is hoped that due allowance will be made; for in treating upon a subject so disgusting to every feeling of virtue, and so palpably absurd as the doctrine of polygamy, which is taught and ~~xxxxxxx~~ practiced by Brigham Young and his party,would seem to every chaste and reflecting mind to need no comment in proof of its falsity. But the wretched perversions of good and holy principles, feigned by the misapplication of sacred Scripture, so as to decoy the minds of many to credit their sophistry; and seeing the calamitous train of evils that so base apostasy has brought upon this people,and feeling for the welfare of this church, and knowing that such a system of whoredoms is wholly unauthorized in the doctrine given for a foundation of faith and pratice in this church, and is a down right perversion of her laws and an imposition upon the members; therefore seeing the great necessity of a defence being made in support of the true principles as given to the church in the beginning; and also the frequent solicitations to the same by my brethern, which has induced me to present an exposition of their abominable doctrines of whoredoms as found in their own standard publications of that apostate division, of which Brigham Young holds the Presidency;and those references and quotations that I have given in this work is but a small portion of apostate doctrines that is found in their own standard works.But let the candid reader compare their doctrine with the standard of truth, and he need not be at a loss to perceive that it is postively and certainly false".
The book of Mormon referred to in this work is of the third edition,(Nauvoo,Illinois) and also the book of doctrine and Covenants of the second European edition,-Liverpool.
The remarks that are presented on the subject of priesthood and church organization is not pretended to be full and complete, in containing all that might profitably introduced on this all, and infinately important subject; but is briefly ~~xx~~ presented in as plain and simple manner as is practicable with its author, endeavoring to observe that style of simplicity that would be plain and easy to the understanding of all who may read; and that a sufficiency is given to guard off all imposition, and to establish every mind in regard to the true order of the Presidency.
I will here present a mirror for Brigham Young to behold himself in, and all his doings; and also of all his followers as found in the book of Mormon, P. 17,-Book of Mosiah,7th chap.
"And now it came to pass that Zeniff conferred the kingdom upon Noah, one of his sons; therefore Noah began to reign in his stead, and he did

not walk in the ways of his father. For behold he did not keep the commandments of God, but he did walk after the ~~xxxix~~ desires of his own heart. And he had many wifes and concubines. And did cause his people to commit sin,and do that which was abominable in the sight of the Lord.
Yea,and they did commit whoredoms and all manner of wickednes And he laid a tax of one fifth part on all they possessed;a fifth part of their gold and of their silver, and a fifth part of their ziff, and of their copper and of their brass and of their iron, and a fifth part of their fatlings; and x also a fifth part of their grain. And all this did he take to support him and his wives,and his concubines; thus he had changed the affairs of the kingdom. For he put down all the priests that had been consecrated by his father,and consecrated new ones in their stead, such as were lifted up in the pride of their hearts. Yea, and thus they were supported in their laziness, and in their idolatry, and in their whoredoms by the taxes King Noah had put upon his people; thus did the people labor exceedingly,to support iniquity. Yea, and they also became idolatrous, because they were deceived by the vain and flattering words of the priests,-for they did speak flattering things unto them".

By Mr. Traber,-"We now offer in evidence from Exhibit "W", that portion of page thirteen which ~~xxxxxxxx~~ begins with the pronoun"I" in the ninth line, and ending with the words "but do" on the first line of page ~~xx~~ fourteen. Also that portion beginning with the word "was" in the eighth line from the bottom of page fifteen, and ending with the word "God" in the second line of page seventeen. Also that portion beginning with the word "now" near the middle of the page on page nineteen, and ending with the words "from it" in the fourteenth line from the top of page twenty three inclusive. Also beginning with the "now" in the eighth line from the top of page ninety two, and ending with the word "apostacy"in the seventh line from the bottom of the same page".

By Mr. Sourhern,-"I make the same objection on behalf of the defendants as were made to the last offer of prof,-the same objection applies to these offers of proof,- and the objection is made simply because of the irrelevancy of the matter offered, and for the other reasons given without reference to the truth or falsity of what is stated in these extracts".

The extract from exhibit ~~from~~ "W" above offered in evidence from page thirteen, is in words and figures as follows, to x ~~to~~ wit,-" I make mention of these publications for the benefit of those who have not yet seen their writings on the subject of polygamy, or the Spiritual wife system, that many of the brethern in this part of the country could not credit such culumniating reports, at first wishing something better to befall their persecuted brethern, but alas it is true that they both teach and practice the doctrine of polygamy in the most wicked and degrading manner at the Salt Lake valley; and they are now publishing their nefarious doctrines in the most impudent manner to all the civilized world,and their abominable traffic in such poluted doctrines is distined to bring down the vengeance of the just God of Heaven upon heads of all those who hold fellowship with such apostate doctrines, and it is high time that the pure in heart take some special measures for their deliverence from the awful crash of destructions which is hanging over the heads of the apostates of the Church of Jesus Christ, and spedily step forward upon the rock of deliverence and plan of salvation, which is the Book of.Mormon, Bible and Doctrine and Covenants which the saints must come to, and not only say but do".

The extract above offered in evidence from Exhibit "W"on page fifteen,is in words and figures as follows,to wit,-"Was the book of Mormon

and Bible and bookCovenants to be the rock and pilliar of their faith, for the foundation of the church which was organized on the 6th day of April 1830, and was these three inspired books to be a standard for the people of God? Yes, this position it true, and cannot be controverted by any man or set of men. Then Joseph organized the church on that rock or plan of salvation, as contained in those three inspired books. This was the identical great work that Joseph was called to do. Do you, believe this? If you do, can you say, that any of the parties, as they now stand, are built upon that foundation that the apostles and prophets had laid, as is contained in those three inspired books. Remember it is the things written in those books,-it is the doctrine contained in those inspired books, written by the inspired prophets and apostles of the Son of God, that this Church of Jesus Christ was founded and organized upon. Joseph Smith, Oliver Cowdery, and Joseph Smith Jr., were the first elders of this church; they preached and administered unto others those identical doctrines in that perfect sameness who became members, and also some elders of this identical church of Jesus Christ, whose principles of doctrinex, of laws,of church rules, and regulations, of Gospel precepts, of faith, of hope, of charit of piety virtue,meekness, patience, temperence,chastity, courage,godliness,and of all things that is needful for the man of God, that he may be thouroughly furnished with every good word and work in Jesus Christ,is the doctrine contained in these books.The order of the doctrine of the priesthood to Joseph, and from Joseph to the church, and that too, for the last time, and the ordaining of high priests,Elders Teachers, deacons, etc. have been done and performed by that man of God, who was called to lay the foundation of that great work In the book of Covenants we have the order of priest hood,the records of Joseph's labors and many revelations, blessed be God".

The extract from exhibit "W", above offered in evidence from page nineteen, is in words and figures as follows, to wit,- "Now as it has fallen to my lot to take up my pen and vindicate the cause of truth as it is in the Church of Jesus Christ,as established in these last days by that man of God, Joseph Smith,who was called and inspired to lay the foundation anew for the only identical church of Jesus Christ, (since all others have apostatax apostised in omitting some of the doctrines and commandments of God,and substituting the commandments and precepts of men for doctrine, thereby apostatizing themselves from the true faith of the lamb of God;)and that the church of Jesus Christ being established again anew, upon the foundation of the apostles and prophets, of the Son od God, on the 6th day of April A.D. 1830, embracing the doctrine contained in the Bible, Book of Mormon, and book of Doctrine and Covenants for their faith and practice. These three above named inspired volumes was received by the whole church of Christ as established anew again by Joseph Smith, to be the rock,and pillar and ground work of their faith and doctrine in Jesus Christ; hence we have the foundation of this church before us, of which I profess to be a member. Now brethern, every where in the world, where-so-ever you may be, allow me to appeal to you and your consciences, in all candor, honesty and fairness, before God,whom you have professed to love and obey, and by whom you will be judged, according to his written word, it is not an apostacy to depart from the principles of the doctrine that is contained in the Bible, Book of Mormon,and Book of Doctrine and Covenants given in the foundation of this church, for her faith, rules and pratice? I ask you, is it not an apostacy to depart from those sacred things given from heaven, by the God of heamen for our salvation?What say ye? O

reader, reflect and think before it is too late, and see whether you are certainly right. Now, brethern, you have for a long time preached to the various protestant churches, concerning their apostacy, showing that they have apostatized from the primitive order of the gospel; showing that there was none of them legally the true and identical church of Jesus Christ. How did you do this? You showed them that they were not built upon the principles of the gospel as taught by the apostles, and our Lord and Savior Jesus Christ,- as contained in the bible. The New Testament part in particular; that they did not teach and practice according to that sacred book, which was all they had,- which contains the writings of the Apostles, and the sayings of our Savior Jesus Christ. This sacred volume then, was the standard to try the different faiths, creeds and disiplines by; then according to the things written in that sacred book, the Holy Bible you put the whole test,-saying, (to the law, and to the testimony, if they speak not according to this word, it is because there is no light in them,-Isiah-8-20) this, brethern, was often your text, are you now as ready and as willing as ever to quote the same? That sacred book, the Bible, then was the substance of your text; and the law and testimony to which you wished to bring your disputant to be tried by. Now, suppose they, your sectarian friends, has succeeded in proving their doctrine to be precisely according to the bible, would they not have been right? Most assuredly they would. And how would you have proven them wrong, unless by the bible, as you made that a test book? But they did not prove their doctrine to be all precisely according to the bible; therefore, you proceeded to prove and proved their doctrine was not all precisely acording to the bible, and that they were not wholly founded upon the bible. "Look that thou make them after their pattern, which was showed them in the Mount". Exodus 25,40. Again; "See, saith he, that thou make all thing according to the pattern shown to thee in the Mount".-Heb. -8-5., If they speak not according to the word of the Lord God, it is because there is no light in them, therefore, inasmuch as they could not prove that they were precisely founded and built upon the doctrine of the apostles and prophets, you declared they were in a state of apostacy, and proceeded to prove it. How did you do it? Well, I will tell you, friends, how you done it, or could have done it easy. You proceeded to prove that they ommitted some of the commandments of God, given for their salvation, which was essential. You showed that some of the ordinances they did not perform aright, according to the gospel pattern. You also proved by showing that they had substituted the opinions and commandments of men for doctrines; and in many respects, now having done as well as they know how;' therefore, you showed that they were not built upon the principles of the gospel of Jesus Christ and the apostles, according to the Holy Scriptures, which was given for the foundation of the Saints of God; therefore, you proved that they were not built upon the foundation of the apostles and prophets; consequently, they were plainly shown to be in a state of apostacy, because they had departed from the right way. Now, brethern, this is the way you used to treat the sectarian world, whenever you found a departure from a scriptural order of things you cried out apostacy, man of sin, -fallen people, -all in the dark &c. Now brethern, let us turn in the scales and examine the other side, it is right that a people should be examined as to their faith and practice? and also that they should examine themselves? Even if it should turn out that some of you, brethern, have departed also from the faith, and the practice of your profession, as you first were taught, and received. you first received the book of Mormon and the bible and book of Doctrine and Covenants to practice and build upon the sacred things written in those inspired

books.This was your faith at the first. Have you departed from that sacred order of things,which was laid for the foundation of your faith in Jesus Christ? I ask you,have you departed from it?
The following is the extract offered in evidence from page ninety two of said exhibit "W",in words and figures, to wit,- "Now if any one should desire further proof in regard to the things given for a standard and x foundation of this church,just turn and read the 28to33 pages in this work. There you will find prof positive,showing plainly that the doctrine contained in those three inspired volumes,were given to this church for a code of laws, to govern and regulate all matters and affairs in this church, whatever,and to be a standard for the church of Jesus Christ of Latter Day Saints. Hence brethern,I presume we have it plain before us,relative to the subject of the foundation of this church,and I have also shown that the Spiritual wife system is a departure from the foundation and standard of faith and doctrine uponwhich this church was first founded and built up in; also that this departure is a heresy,and that those who were engaged in the practice of polygamy are x in an awful xxxxxxx wicked state of apostacy".

By Mr. E.L. Kelley,-"Plainyiff offers in evidence the book x "Journal of Discourses,"identified by the witness Brackenbury and marked exhibit"One";and on page 50 we introduce all that part in the second column beginning with the word "now"on the ninth line,and extending to the word "sucession" in the first line of the first column one page fifty one, being the apostacy with reference to God being incorporated in the doctrine of the faction that went to Utah in I847 under the leadreship of Brigham Young. Also on page eighty three in the second column all that part beginning in the fourteeth line from the bottom of the page, with the words "I say", and extending to the bottom of the page,showing the manner of dealing with apostates; also on page one hundred and sixty one in the second column, beginning with the fifteenth line from the xx top of the page, and extending to the fourth line from the top of the first column one page one hundred and sixty two."

By Mr. Southern,-"All of which is objected to because it is immeterial irrelevant and incompetent. It is irrelevant to any issue or matter pertaining to this case in any manner, and because the extracts offered in evidence purport to be only extracts from a book,-and there is nothing to show they are expressive of opinion,or doctrine of any faction or church,- that nothing has been shown prior to their introduction or is shown now, to identify them as the deliverence of the party to whom they are credited."

By Mr.E.L. Kelley,-"I think this was done,but if it was not I will now offer the title page of this work entitled "Journal of Discourses by Brigham Young,President of the Church of Jesus Christ of Latter Day Saints ,His two Counsellors,the twelve Apostles and others. Reported by G.D. Watt,and humbly dedicated to the Latter Day Saints in all the world.Volume I. Liverpool.,Published by F.D. and S.W.Richards,I5 Wilton street. London., Latter Day Saints Book Depot,35 Jewin Street City. I8 I854".with the introduction of the matter on page fifty that was first offered, and also offer the following as a heading of of the discourse in which that language occurs "A Sermon delivered by President Brigham Young in the Tabernacle,Great Salt Lake City, April 9th I852." Accompanying and going with the matter on page eight three, beginning with the second column, I also offer the heading as it is printed inxx the same work as follows,-"An address delivered by President Brigham Young in the Tabernacle, Great Salt Lake City. March 27th I853"x.

In connection with that part offered ~~xx~~ from page one hundred and sixty one, I offer the heading as follows,-"An address delivered by President Heber C. Kimball, in the Tabernacle Great Salt Lake City, October 9th 1852,at the general conference". All are found in the same exhibit marked "one".

By Mr. Southern,-"All of which are objected to for the reasons to be found in the objections to the last offer of proof,and for the further reason that what is offered is not even second rate hear say testimony offered, and for the further reason that the testimony offered does nor purport to be or to show authoritively the belief and the doctrine of any church organization connected directly or indirectly with the controversy in this case".

The following is that part of the exhibit referred to as exhibit "one" introduced in evidence from page fifty, in words and figures, to wit,- Now hear it, O inhabitants of the earth Jew and Gentile, Saint and Sinner, When our father Adam came into the Garden of Eden, he came into it with a celestial body, and brought Eve, one of his wives with him. He helped to make and organize this world, He is Michael the Archangel, the Ancient of Days.about whom holy men have written and spoken.,-He is our father and our God, and the only God ~~xx~~ with whom we have to do. Every man upon the earth , professing Chirstians or non-professing, must hear it, and will know it sooner or later. They came here,organized the raw material and arranged in their order the herbs of the field, the trees the apple, the peach, the plum, the pear, and every other fruit that is desireable and good for man; the seed was brought from another sphere and planted in this earth. The thistle, the thorn, the briar, and the obnoxious weed, did not appear until after the earth was cursed.When Adam and Eve had eaten of the forbidden fruit, their bodies became mortal from its affects,and therefore their offsprings were mortal. When the Virgin Mary conciewed the child Jesus,the Father had begotten ~~xxx~~ him in his own likness. He was not Begotten by the Holy Gost. And who is the Father? He is the first of the human family;and when he took a tabernacle it was begotten by ~~xxx xxxxxxxxxxx~~ his Father in Heaven, after the same manner as the tabernacles of Cain,Abel, and the rest of the sons and daughters of Adam and Eve; from the fruits of the earth,the first earthly tabernacles were originated by the Father, and so on in sucession".

The following is that part of the exhibitreferred to as exhibit "one" introduced in evidence from page eighty three, in words and figures, wit,-"rather than that apostates should flourish here, I will unsheath my bowie knife and conquer or die.(Great commotion in the congregation and a simultaneous burst of feelings assenting to the declaration.) Now you nasty apostates clear out, or judgement will be put to the line. and righteousness to the plummet. (Voices,generally,- "go it","Go it",) If you say it is right raise your hands. (All hands up) Let us call upon the Lord to assist us in this, and every good work.

The following is the part of the exhibit referred to as "one" offered in evidence on the part of the plaintiff, in words an figures to wit,-(found on page one hundred and sixty one) "What need you care where you go,if you go according to direction, and when you get to Coal Creek or Iron County, be subject to that man who is placed there to rule you, just the same as you would be subject to President Young if you were here, because that man is delegated by this Conference, and sanntioned by this people, and that man's word is law. and so it is with the Bishops;they are our fathers our goveners, and we are their household. It is for them to provide for their household. and ~~xxxx~~ watch over them and govern and control them; they are potters to mould you,

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And when you are sent forth to the nations of the earth, you go to gather the clay and bring it home to the great potter, to be ground and moulded until it becomes passive and then be taken-and formed into vessels, according to the dictation of the presiding potter. I have to do the work he tells me to do, and you have to do the same, and he has to do the work told him by the great master potter in heaven and on earth. If brother Brigham tells me to do a thing it is the same as if the Lord told me to do it. This is the course for you and every other saint to take, and by your taking this course, I will tell you, brethren, you are on the top of the heap. We are in the tops of the mountains and when the stone shall roll down from the mountains it will smash the earth, and break in pieces everything that opposes its course; but the stone has to get up there before it can roll down."

It being impossible to conclude the taking of the depositions herein on this day, the further taking of the same was continued until Wednesday the 28th day of April I892 at the hour of 9.30 o'clock A.M. at which time the further taking of same is to be continued.

Now on this Wednesday the 28th day of April I892 at the hour of 9.30 o'clock A.M. come the parties hereto as aforesaid, and the further taking of the depositions herein was continued, pursuant to adjournment.

Charles R. Ross, of lawful age, being produced, sworn and examined on the part of the plaintiff, testified as follows

Direct examination by Mr. Traber,-

I Q:-What is your full name? A:-Charles R. Ross.
2 Q:-Where do you reside, Mr. Ross? A:-In Caldwell County, at Braymer.
3 Q:-Is that in Caldwell County, Missouri? A:-Yes sir.
4 Q:-What is your age Mr. Ross? A:-I will be seventy-nine years of age the sixteenth of August,-I am seventy-eight years old now.
5 Q:-How long have you lived in Caldwell County? A:-Since the first day of February I889.
6 Q:-Immediately previous to that time where did you live? A:-I lived on the edge of Livingstone, sir.
7 Q:-Livingstone County? A:-Yes sir.
8 Q:-Does Livingstone County adjoin Caldwell? A:-Yes sir, it is the adjoining county on the east.
9 Q:-How long did you live there? A:-On the edge of Livingstone?
I0 Q:-Yes sir? A:-I came there on the fifth day of November of '38.
II Q:-The fifth day of November I888? A:-Yes sir.
I2 Q:-Where did you live prior to your coming there? A:-I lived in Tennesee. I lived in Tennesee eighty miles east of Nashville in Warren County.
I3 Q:-Then you came there from Tennesee? A:-Yes sir.
I4 Q:-You came to Livingstone County? A:-Yes sir.
I5 Q:-From Tennesee you came to Livingstone County? A:-Yes sir.
I6 Q:-Did you know anything about the religious sect of people called Mormons at that time? A:-Not until I was down at Keyetsville coming up there,-that is, when I was on my way up there. That was the first I knew of them.
I7 Q:-Where is Keyetsville? A:-In Chariton County.
I8 Q:-Where does Chariton lay from Livingston? A:-It is one or two counties east of Livingstone.
I9 Q:-What did you learn ~~about~~ that time about the Mormon people? A:-WE camped there at that place in Chariton County, and we were going up to the line of Caldwell and Livingston, for I had a brother-in-law living there, and we were moving up to where he lived, and it was while we camped there that I saw the Mormons first.

20 Q:-You say "we", whom do you mean by "we"? A:-Well sir we were all there.
21 Q:-Well that is just what I want to know whom you mean by "we",-when you say "we were all there",whom do you mean by the "we"? A:-Well sir,the whole connection of us,my father-in-law,myself and the whole connection of us,and there was five families of us in all,and we were moving in the old fashioned way with wagons up there to where my brother-in-law lived on the edge of Livingston County.
22 Q:-Well,what occurred there? A:-Well after we camped I went to the man's house,-that is,the house of the man on whose land we were camped,and there was a gentleman and lady there that were scared about this trouble,and they said that they had been run out from Davies County,and they were in that man's house there on account of that trouble.
23 Q:-They did not live there then,-they were simply stopping there? A:-Yes sir,they were there,and they said they had been run out of Davies County on account of the trouble,and they were there and they were afraid of the trouble that was rumored to be there at the time.
24 Q:-Well I don't care about your stating what they said to you,because that would not be testimony at all,-just tell what you know about the matter of your own knowledge,-what you know personally and nothing else? A:-Well sir,I came up to Keytesville and when I got there I heard there was a wounded Mormon there. Parties told me that,and after I got there there was a guard there,and they examined everybody that came up,and if they had a box bed on their waggons,-the same kind of a bed that we have here now,they were not allowed to go through without some kind of an examination,and as we had the old fashioned kind of waggon beds they did not stop us.
25 Q:-High behind and in front? A:-Yes sir,and we had some niggers and some hounds with us,and they said we were not Mormons,and let us go through.
26 Q:-Because you had that kind of a wagon bed? A:-Yes sir. There was lots of people camped there,and they said they were Mormons. Keytesville was a pretty small town then,and when these people came up they halted them,-the guard did,-and went and hunted this man,-well let me see how that was,-yes,when we got there and they had decided we were not Mormons,we ~~ca~~ camped and then we went and hunted this man up that was wounded,-the wounded Mormon,for we wanted to see him. Now my brother-in-law lived within six miles of this mill where they had the fight and so many of these Mormons were killed.
27 Q:-What mill? A:-Hahn's mill,the place where that big fight was,or where so many of these people were killed. Well I went and hunted this man up,and I found him lying there on a bed pretty badly wounded,and I inquired of him about that trouble,-
28 Q:-Well you need not tell what he said? X A:-Well then I will leave him. I found him pretty badly wounded, as I said,but if I can't state what he said I might as well leave him where I found him. Well then we came ~~xx~~ on up to the line of Caldwell County and stayed there a couple of nights,and then fell back again to Utica and staved there that winter,or the biggest portion of the winter,and then along about January of 1838 I rented a portion of this mill.
29 Q:-What mill was that A:-This old Mormon mill.Hahn's mill.

30 Q:-Was that mill known as the Mormon's mill? A:-Yes sir
31 Q:-The property that belonged to Mormons? A:-Yes sir. It was a mill that was built by the Mormons and they had run it for some time. Hahn built it himself so I was told,but I never saw him and of course I don't know anything about that only what I was told.
32 Q:-Was Hahn so far as you knew a Mormon? A:-Yes sir, that was what I understood but I don't know anything about that or about him individually,but he was a good workman and put up a mighty good mill there.
33 Q:-In what way were those people spoken of? A:-What people?
34 Q:-These people,were they spoken of as Mormons or as Latter Day Saints? A:-They were spoken of as Mormons. My understanding was that they had to get away from that country by the 10th of the next June,-all of them that would not submit to the government,or take the oath of allegiance,as it was termed. I see Mr. Kelley don't understand that.
35 Q:-Well the 10th of June of what year? A:-'69.
36 Q:-You don't mean '69,-you mean '39 don't you? A:-Yes sir, '39,I meant to say. I ask your pardon about that for I meant to say '39.
37 Q:-Do you know by what orders or by whose authority the order for their leaving was issued,or by whom,-Do you know anything about that? A:-By the orders of the government I understood.
38 Q:-That is what they said? A:-Yes sir,that is what they said.
39 Q:-You said "they said",-just explain who you mean by "they"? A:-Well I mean that both sides told me that.
40 Q:-Both sides told you that? A:-Yes sir.
41 Q:-Well what do you mean by both sides? A:-Gentiles and Mormons both told me that. The Gentiles were on one side of the question and the Mormons were on the other side,and they both told me the same thing,you know.
42 Q:-Who were the Gentiles? A:-The Missourians.
43 Q:-The citizens of Missouri? A:-Yes sir.
44 Q:-And the Mormon element as well as the native,or rather the citizens of the country who were not Mormons told you that was the reason of the expulsion of the Mormons? A:-Yes sir.
45 Q:-That they were forced to leave by an order of the govenor? A:-Yes sir,by order of the government.
By Mr.Southern,-"All this hearsay testimony is understood to be objected to because it is hearsay and irrelevant."
By Mr.Traber,-"Yes sir."
46 Q:-How many of these people that you call Mormons did you meet there at that time? A:-Well I expect some forty or fifty or more.
47 Q:-Did you converse with that many of the Mormons on the question of the difficulty they were in? A:-Yes sir,I think so,-perhaps more that that.
48 Q:-How many of the other side did you converse with on the same question? A:-Well about the same number.
49 Q:-Well how many of these people did you converse with? A:-Well I can't say,for I don't know. But there was a good many,but the exact number I cannot say. I was in the mill there at the time,and they used to come there with their grists you know,and we would talk over one thing and another and it was natural that we should talk about that,but when it comes down to telling you the number of people I have talked with about that I can't do it. I run the mill there at the time,and they had to come to the mill to me.
50 Q:-How did it happen that they conversed with you? A:-Well as I told you before the Mormons had to come there to get their grinding done and we would talk

30 Q:-Was that mill known as the Mormon's mill? A:-Yes sir
31 Q:-The property that belonged to Mormons? A:-Yes sir. It was a mill that was built by the Mormons and they had run it for some time. Hahn built it himself so I was told,but I never saw him and of course I don't know anything about that only what I was told.
32 Q:-Was Hahn so far as you knew a Mormon? A:-Yes sir, that was what I understood but I don't know anything about that or about him individually,but he was a good workman and put up a mighty good mill there.
33 Q:-In what way were those people spoken of? A:-What people?
34 Q:-These people,were they spoken of as Mormons or as Latter Day Saints? A:-They were spoken of as Mormons. My understanding was that they had to get away from that country by the 10th of the next June,-all of them that would not submit to the government,or take the oath of allegiance,as it was termed. I see Mr. Kelley don't understand that.
35 Q:-Well the 10th of June of what year? A:-'69.
36 Q:-You don't mean '69,-you mean '39 don't you? A:-Yes sir, '39,I meant to say. I ask your pardon about that for I meant to say '39.
37 Q:-Do you know by what orders or by whose authority the order for their leaving was issued,or by whom,-Do you know anything about that? A:-By the orders of the government I understood.
38 Q:-That is what they said? A:-Yes sir,that is what they said.
39 Q:-You said "they said",-just explain who you mean by "they"? A:-Well I mean that both sides told me that.
40 Q:-Both sides told you that? A:-Yes sir.
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50 Q:-How did it happen that they conversed with you? A:-Well as I told you before the Mormons had to come there to get their grinding done and we would talk

matters over and they would tell me when they would be there getting their grinding done,for they had to come there to get their grinding done to go away,you know.

51 Q:-You mean to Hahn's mill? A:-Yes sir.

52 Q:-You were interested in that mill then? A:-Yes sir, and it was the only mill for many miles around and some of them came as much as sixty miles to the mill you know,to get their grinding done.

53 Q:-Now you said the other party? A:-I meant the Gentiles for all that were opposed or against the Mormons were called Gentiles.

54 Q:-That is whom you mean when you say"the other party"? A:-Yes sir.

55 Q:-Now you said they came sixty miles with their grain to get it ground? A:-Yes sir,some of them did.

56 Q:-What time was it now when you became the lessee of Hahn's mill? A:-The how?

57 Q:-You leased it as I understand you? A:-I rented it. I rented the half of it for one year at first.

58 Q:-How could you use the half of it? You must have been in with some one? A:-Yes sir,I had another man in with me.

59 Q:-Then you were in the mill with some one else? A:-Yes sir,with a nephew of mine.

60 Q:-Then you and your nephew leased it for a year? A:-Yes sir,and afterwards my brother-in-law that owned half the mill sold it to the other man,and then I leased it for another year,and the old gentleman that owned it I bought half an acre of land from him, and we concluded to lay off a town there,and we did lay it out and ~~XX~~I lived there seven years.

61 Q:-Now from the time you first went there and met these Mormons,how long was it after that before the last of them was gone,if they did all go? A:-Well the last of them went,-well I reckon they went in that winter and the next spring,for I never saw any more of them only the ones that took the oath of allegianc and stayed there. There was several families that did that,and were allowed to stay there.

62 Q:-Well now you have not fixed the time definitely,-I asked you how long it was after you first went there before they were all gone,excepting those men you have mentioned who took the oath of allegiance,as you term it? A:-Well sir,I expect they were all gone in six months at any rate.

63 Q:-In six months they were all gone you-say? A:-Yes sir,I expect they were.

64 Q:-Now about how many people do you expect left under these circumstances?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it calls for an opinion of the witness and is irrelevant.

A:-Well sir,I could not tell you how many there was, but there was a good many of them.

65 Q:-Do you remember anything about General Clarke? A:-General Clarke?

66 Q:-Yes sir? A:-No I don't think I do.

67 Q:-Well of those who remained and took the oath of allegiance how many was there? A:-Well sir,I reckon there must have been some fifteen or sixteen families maybe twenty.

68 Q:-Some sixteen to twenty families in the county? A:-Yes sir,about that number I think.

69 Q:-Well did they remain there in the county? A:-Yes sir the most of them did. Some moved off around in other parts of the country though.
70 Q:-When? A:-Afterwards they did.
71 Q:-Well now what was that oath of allegiance that they had to take,if you know? A:-To support the government of the United States.
72 Q:-Was that all?A:-That was what I understood.
73 Q:-You understood that was all? A:-Yes sir.
74 Q:-Well how do you know that was what it was? A:-Well I just knew from hearsay.
75 Q:-You just knew it from hearsay? A:-Yes sir.
76 Q:-And there might have been very much more besides that that you don't know anything about? A:-Yes sir.
77 Q:-Now did they preach or practice or teach their religion? A:-Who?
78 Q:-Those who remained,-did they preach,practice or teach their religion? A:-No sir,not to my knowledge. They did not to my knowledge,and I can't say anything about that,for I never was at one of their meetings in my life. Never that I know of.
79 Q:-Did they have any meetings in that country after you went there? A:-Yes sir,they had some before they left but I never was at one of them.
80 Q:-You mean those that did not take the oath of allegiance had meetings? A:-Yes sir. Well I will say yes I suppose so,but I cannot say positively because I did not pay much attention to that.
81 Q:-Well now if they were seperated,-those who did not take the oath of allegiance from the ones that did take the oath of allegiance,did any of those who took the oath of allegiance and remained hold meetings and pursue the same course that they did before in reference to that? A:-Not that I know of. I never heard them preaching that doctrine there.
82 Q:-You say you never heard them preaching that doctrine there,-who do you mean by the "them"? A:-The ones that took the oath of allegiance. I never heard of them preaching that doctrine there. That is,the ones who took the oath of allegiance.
83 Q:-Now as a matter of fact you do not know positively of your own knowledge whether there ever was any such thing as an oath of allegiance? A:-Well I have an ~~id~~ idea that it was.
84 Q:-You simply have an idea? A:-Yes sir.
85 Q:-And that idea does not amount to positive knowledge? A:-No sir.
86 Q:-And that idea is gathered from what you heard people talk about it as I understood you to state? A:-Yes sir,that is what I heard at that time.
87 Q:-And so far as your personal knowledge goes you do not know anything about it? A:-No sir,for I am not an educated man,-I never had an education,-and I can't tell you what the beginning of it was.
88 Q:-What is your business now? A:-Well sir,I can't say what my business is hardly. If I had to state what it was I would say my business is working in a garden and we have a bakery and a millinery business there too.
89 Q:-You are not identified in any way with the re-organized church of Jesus Christ of Latter Day Saints, are you? A:-No sir,not at all.
90 Q:-What religious denomination,if any,do you belong to?

A:-Well, I used to belong to the old Methodists at one time, but I don't belong particularly to any church at the present time. I have kind of cropped out of the church you might say, and don't belong to any of them now.

91 Q:-You do not belong to any church at the preaent time? A:-No sir, I might say that I do not. We have several churches there in our county, and I have been around to hear them all but one, but I have not been to hear that one yet, so you see while I belong to no church in particular I go to the churches now and then.

92 Q:-Your name you say is Charles R. Ross? A:-Yes sir, C. R. Ross is the way I sign it, and that is about all I can do in the way of writing it too.

93 Q:-Have you ever seen a book called "A history of Caldwell and Livingston Counties" published in 1886? A:-Yes sir, and I suppose there is a good deal of my chat in that book too. The gentleman that was writing it or looking it stayed a night or two with me,- two or three nights I guess perhaps when I was running a hotel at Black Oak in that county.

94 Q:-Do you remember the month or months in which the great body of the people left that county,-I mean the Mormon people? A:-I think the biggest body went in May.

95 Q:-In May 1839? A:-Yes sir, in May 1839.

96 Q:-Was there or was there not, considerable feeling against the Latter Day Saints or Mormons as they were commonly called, in that particular locality? A:-Hard feeling did you say?

97 Q:-Well I did not say exactly that but it amounts to the same thing? A:-Well of course there was for a certainty. There is no doubt about that, but both parties treated me all right. I can say that much for all of them.

98 Q:-Whether they were Mormons or whether they were Gentiles, they treated you all right? A:-Yes sir, it did not make any difference in the way they treated me.

99 Q:-Well now how long, if you know, did this feeling against these people continue in these counties? A:-Well I could not tell you that for some have a prejudice against them today.

100 Q:-Some today have a prejudice, you say, against them? A:-Yes sir.

101 Q:-That is, against the people called the Mormons? A:-Yes sir. There is no doubt of that sir.

102 Q:-No doubt of what? A:-That some people have a prejudice against the Motmons today.

103 Q:-Do you mean by that that the prejudice has continued from that time down to the present day? A:-Yes sir, certainly I do.

104 Q:-Or that it is simply confined to the present time? A:-No sir, in certain families there has been a prejudice against them right from that time down to the present day.

By Mr. Southern,-"You do not offer that book for the purpose of identification by this witness. I want to know if you offer this book as having been identified by this witness."

By Mr. E. L. Kelley,-"No, no, not at all."

By Mr. Traber,-

105 Q:-What I wanted to ask him was,-what I intended to ask you when I started out was whether you were the same Ross that is mentioned in that book? A:-Yes sir I think I am,-I have no doubt of it.

By Mr. E. L. Kelley,-"This book identifies itself, and we will use it when we get ready to do so. We don't offer it at this time however."

Cross examination by Mr. Southern,-

106 Q:-You have lived in Caldwell County Mr. Ross ever since the time you have mentioned? A:-Yes sir.

I07 Q:-When was the time you said you first came to Caldwell County? A:-In '39 I first came there to live, but before that I had lived down there close to the line in Livingston County for some months.
I08 Q:-When did you first come to Caldwell County to live? A:- February Ist 1839.
I09 Q:-And you have never lived anywhere else? A:-Not since I came there.
II0 Q:-You have never lived anywhere else since you came there? A:-No sir,I have lived there ever since I came to the county,-that is,I have never moved out of the county to live since I came there. I have lived in the county all the time,and I have moved but a few times around in the county.
III Q:-Now you spoke a little while ago about the prejudice that existed in the county there against the Mormons? A:-Yes sir,I spoke of the circumstances that a few of the old citizens there that were there when they were there,and were in these fights and at that surrender and all those things have a prejudice against them to this day.
II2 Q:-That is the way that is,-there is a lingering prejudice that has descended since that time? A:-Yes sir
II3 Q:-And you say that is a prejudice against the Mormons A:-Yes sir.
II4 Q:-There are some citizens there that don't like them? A:-Yes sir.
II5 Q:-Well is that not true about the Methodists,-is there not some people that have a prejudice against the Methodists? A:-Well the churches are split up you know,and there is some prejudice in that way against them,but that is a different thing entirely. It is another kind of a prejudice entirely.
II6 Q:-Well is there not the same prejudice against the Roman Catholics? A:-Yes sir,and there most always is wherever you go with some people.
II7 Q:-IS there not just as much prejudice against the Roman Catholics as there is against the Mormons? A:-Well I couldn't say,for there is very few Roman Catholics in our county. We haven't a Roman Catholic church in our county,or anything of the kind,and so I can't say as to that. I don't know anything at all about that in that way for that reason.
II8 Q:-You say there is no Catholic churches in your county? A:-No sir,not in our county.
II9 Q:-Are there any Mormon churches there now? A:-In our county?
I20 Q:-Yes sir? A:-None that I know anything of in our county.
I2I Q:-DO you say there is not any? A:-Yes sir. There may be some of the Latter Day Saints there for all that I know,but if there is they are not in my end of the county.
I22 Q:-There may be some of the people called Latter Day Saints in Caldwell County for all that you know? A:-Yes sir,there may be,but I don't think there is many of them if there is any at all. I am pretty sure they haven't a church there in our county,but there is a church in a place called Tinney's Grove,in Ray County. That denomination has a church there I understand,but I have never been to it though.
I23 Q:-Do I understand you correctly when I understand you to say that you knew them as Mormons when you first met them,or knew them there in the county at first? A:-Yes sir.
I24 Q:-And not as Latter Day Saints? A:-Yes sir,-there was

I07 Q:-When was the time you said you first came to Caldwell County? A:-In '39 I first came there to live, but before that I had lived down there close to the line in Livingston County for some months.
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I23 Q:-Do I understand you correctly when I understand you to say that you knew them as Mormons when you first met them,or knew them there in the county at first? A:-Yes sir.
I24 Q:-And not as Latter Day Saints? A:-Yes sir,-there was

nothing said about Latter Day Saints. They were called Mormons.

I25 Q:-Now you think in that neighborhood,if not in that county,but in a neighboring county,there is a church of Latter Day Saints? A:-Yes sir,that is what they tell me. I did not witness it,-that is,I do not know the church is there from my own knowledge,-that is what they tell me,and all I know about it is from hearsay.

I26 Q:-Well how far is it from where you live to the place that you understand this church of Latter Day Saints is? A:-It is about nine miles from where I live to the place where they say it is.

I27 Q:-And you have never seen that church? A:-No sir.

I28 Q:-Now do you know the names of any of these Mormon people that you saw in those days? A:-Oh yes.

I29 Q:-Do you remember any of their names? A:-Yes sir. T There was the Rathbuns.

I30 Q:-Sir? A:-There was the Rathbuns,and in telling over the names of the ones that stayed there,there was the Waters' and Rathbuns,and they continued in our county. There was the Walters family and also the Dodge family,and let me see who else there was there. Well there was several others that I have forgotten the names of,for it has been a long time since those days,and I can't remember the names very well.

I31 Q:-Did you know the Whitmers? A:-Yes sir. I knew the two old men Whitmers. One lived there at Richmond, and the other one died at Far West. I knew them well and I knew the youngest son of the old man that lived there at Far West.

I32 Q:-Were they Mormons? A:-Well they were,but they took the oath of allegiance and stayed there.

I33 Q:-Now the names of the people who were Mormons that you have given is the names of the ones that stayed after the expulsion,as it is termed? A:-Yes sir.

I34 Q:-Did you know the names of any that left? A:-Well I don't know that I am able to call any of them to mind. I used to be able to call their names but I believe it has been so long ago that I have forgotten them. I can't now recollect names like I used to do for I am getting old,and it has been a long time ago since these things happened. It has been fifty years and upward since that time. These head leaders of the church when I came there,Joseph Smith and Hyrum Smith and Lyman Wight,and Sydney Rigdon were all in Richmond yet,when I came to Caldwell County.

I35 Q:-When was that? A:-In '39,-or '38 I mean.

I36 Q:-When did you,-did you come by Richmond when coming there? A:-No sir.

I37 Q:-How do you know they were there? A:-Well I was told they were there.

I38 Q:-Now what time was it when you arrived in Caldwell County? A:-In '38.

I39 Q:-What time in the year? A:-The first day of February '39.

I40 Q:-The first day of February '39? A:-Yes sir,but I was down there near the line of Caldwell County in the fall of '38,and of course I heard a great deal of this while I was there.

I41 Q:Now at that time who was in Richmond,-where were they in Richmond? A:-In jail.

I42 Q:-Now at that time who was in the Richmond jail? A:-Lyman Wight and Sydney Rigdon and Joe Smith and Hyrum Smith were said to be in the Richmond jail at that time for treason.

I43 Q:-Do you call to mind the names of any other people who were said to be in the jail at Richmond at that

time? A:-Sir?
I44 Q:-Do you call to mind any other names of Mormons who were said to be in jail there? A:-No sir,none but them.
I45 Q:-That is all you call to mind? A:-Yes sir,and what makes me recollect so well ~~so well~~ about that is because they took a change of venue from this state to Illinois,and the sheriff of Davies County was to take them there. Let me see what his name was,-I believe his name was Bowman,but I am not certian about it,but I think that was the name.

By Mr.E. L. Kelley,-

I46 Q:-Just state what you know,and not what you heard? A:-Well this is only hearsay.

By Mr.Southern,-

I47 Q:-You went up to Hahn's mill? A:-Yes sir.
I48 Q:-Well at what time did you go up there? A:-I took possession there with my nephew on the first day of February 1839.
I49 Q:-You say there was a wounded man there? A:-Yes sir.
I50 Q:-At that time? A:-Yes sir,I believe there was two there wounded at that time.
I5I Q:-Was this man badly wounded? A:,Yes sir.
I52 Q:-Both of them? A:-Yes sir,both of them,-they were pretty badly wounded One of the men that was wounded went by the name of Meyers,and the other,-well I can't think of his name now. Let me see. There was two Meyers' wounded in that battle or fight I think.
I53 Q:-You remember that? A:-Yes sir,I think that was their names,-one of them was Meyers,and I think there was two of them by the same name.
I54 Q:-Did you know Rathbun there? A:-Yes sir,I knew the old gentleman,-the father of this one that has been here. Was the old gentleman named Rodert Rathbun-?
I55 Q:-Well it don't matter,-did you know the one that was here? A:-I knew him when he was a boy.
I56 Q:-What time did you know him? A:-Well he remained there with his mother in our neighborhood for some time,-I can't say how long.
I57 Q:-Where did you first see him? A:-Well I believe I saw him in the spring there,-I believe he was at my house. His mother was I know,and I believe he was also.
I58 Q:-The spring of what year? A:-Of '39.
I59 Q:-Was he lame? A:-Yes sir,when you speak of it I recollect now of his being a little lame I think.
I60 Q:-You remember then about his being there? A:-Yes sir. I remember something about his being a little lame. I remember something about that I think. I know that his oldest sister used to work for me along about that time while the old man was gone,for he was gone for a couple of years.
I6I Q:-You remember of his,-that is,of the old gentleman going away? A:-Yes sir,he went off about the same time that the Mormons did,and when he came back the old lady and the oldest daughter were at my house,for they only lived when they were at home within a mile or so of me.
I62 Q:-Were you ever at Far West? A:-Yes sir.
I63 Q:-When was the first time you was there? A:-I was there when the first court was held there. I think that was in May after the Mormons left,and I was one of the grand jury,and that is how I came to be there at that time.
I64 Q:-You were there you say,at the first court that was held?

A:-Yes sir.
I65 Q:-And that was after the Mormons had gone away? A:-Yes sir,It was after they left.
I66 Q:-And that was in May,you say? A:-Yes sir.
I67 Q:-What court do you mean? A:-The Circuit Court,sir.
I68 Q:-It was the Circuit Court? A:-Yes sir,and I was there at the first Circuit Court that was held in the county after the Mormons gave up the possession, you know,but there was lots of Mormons there at that time,but they had promised to leave right away,and had given up possession of the county.
I69 Q:-That court was held at Far West? A:-Yes sir.
I70 Q:-Was there a court house at Far West at that time? A:-No sir,there was no court house there then.
I7I Q:-Where was the court held in Far West? A:-It was held in a frame building that was there. It was held there for three years,and I was there at every court that was held there during the three years.
I72 Q:-Were you there at any other court besides the Circuit Court? A:-I can't say. I don't believe I was there at the county courts but may be I was at one. Yes I think I was at the County Court once and filed some papers in it if I am not very much mistaken.
I73 Q:-Did you have any business with the County Court? A:-Yes sir.
I74 Q:-I mean in '88 or '89? A:-Well sir,our court house was moved in '88 or '89 to Kingston.
By Mr.Traber,-"What is the object of this examination? Is it for the purpose of testing the witnesses memory? If it is I will not object,but if it is not for the purpose of testing his memory I will object."
By Mr.Southern,-"Well I have a purpose Mr.Traber and that purpose is pertinent to the issues involved,and the examination in my opinion is relevant,and whilst I shall be as courteous as I can to Counsel for the plaintiff and the witness,yet I do not think the time is the proper one to disclose the purpose of this examination."
By Mr.Traber,-"Well that is all right. I don't want you to think that I think you are doing it for the fun of the thing."
By Mr.Southern:-"No I don't think you think so. Well that is all."
Re-direct examination by Mr.Traber,-
I75 Q:-Did you ever own any real estate in Caldwell County A:-Yes sir.
I76 Q:-When and from whom did you purchase it? A:-I purchased one forty acre lot,but I did not purchase it from a Mormon direct,it was second-handed so to speak. I purchased it from a man who bought it from a Mormon,and I purchased forty acres from James Hahn adjoining this mill,-I mean to say I did not purchase it from him,but from another man that he sold it to. I owned about nine hundred acres in that county at one time.
I77 Q:-Did you know of any one having been shot during these troubles in the blacksmith shop at that place? A:-Yes sir,and the man that did the deed stood right on the ground the next summer and said "I stood right here Charley and shot that boy under the bellows right there,for the boy ran up under the bellows for protection" and that is where he shot him.
I78 Q:-That is what he told you? A:-Yes sir.
I79 Q:-And showed you where it was done? A:-Yes sir.
I80 Q:-When was this that he showed you that? A:-That was in '89,-along some time in the summer of '89.
I8I Q:-Was he boasting of it? A:-Yes sir,and I took him by the shoulder and shook him and said "Bill Runnels,

never tell that again in the world." I said "be ashamed of it" and he said "knits make lice" and that was all the reply he made to what I said to him.

I82 Q:-That was done in the black-smithx shop? A:-Yes sir.

I83 Q:-Who was the boy that was shot? A:-Well I presume I would remember the name of the boy if I heard it,but I can't remember it,not unless my memory was refreshed

I84 Q:-Would you know the name of the boy if you heard it? A:-I might.

I85 Q:-Was he the son of Warren Smith? A:-Warren Smith?

I86 Q:-Yes sir? A:-I could not say.

I87 Q:-Who was it told you that? A:-It was Bill Runnells told me that,and he lived in the north east corner of Caldwell County. There was another man that I was well acquainted with that was in that fight. He was a Tenneseean,and he shot a man by the name of Lewis, so he said. He shot that man across the creek on top of the hill,and this Tenneseean was there the next summer after the fight and walked out on top of the hill and showed me where he shot the man,-where he stood when he fired the shot,and where the man was that was shot. He shot this man Lewis from the fence on the other side of the creek,and two years afterwards his remains were taken out of the field and buried,for he was not put in the well with the rest of them,for he was buried about a quarter of a mile from where he was killed. My brother-in-law bought the land and there was a little patch of brush where he was buried,and my brother-in-law wanted to remove his remains,and I think it was the second or third court they had there in the county my brother-in-law went to the court to get an order to do so,and move them to the grave yard,and I think that Govenor King was the Judge of the Court,and he and my brother-in-law were educated together in Tennesee,and he just said to him,-he said "Billy",for his name was Billy Lane,-he said "there is no need of that order,but you just get your neighbors to take them up and put them away." I was not there when they were taken up ,but I was there after they were taken up and were in a box in the house,and I examined them myself and saw the size of the ball he was shot with,and the size was the same as the size of the ball that the man that shot him told me he shot him with,and the hole was right through both blades of the shoulder. Now I saw that with my own eyes,and this man told me he shot him. There is no hearsay about that,for that is something I saw myself.

I88 Q:-Were any of these men ever indicted or brought to justice for shooting these men? A:-No sir.

I89 Q:-Where are they now? A:-They are dead and gone,-both of them. They are not in the land of the living now,but they were never brought to justice for what they did,unless they have been since they died. One of them lived near Utica there,and the other lived in the north east corner of our county.

I90 Q:-What do you know,if anything,about the bodies of any of the Mormon people being thrown into a well that was there? A:-Well it was sais that they were put in there,-

I91 Q:-Well I do not care about your stating what was said about it,for that would not be testimony. The Court would say that you could not give that kind of testimony. What I want to know is what you know personally about it? A:-All right. Well I will tell you what I know personally about it,and perhaps I know a good deal about it,-it settled down,-the graves did-

I92 Q:-Well now you know that is the beginning of it. We want to know all you know about it,and do not understand what you mean by that? A:-Well sir,of this well in which they were put,and of which there can be no manner of doubt. There can be no doubt but that they were put in there,for the next spring when it thawed out,for it was all frozen up when I went there,-and when it thawed out in the spring it stunk like an old dead horse. It was a twelve foot well and eighteen were put in there of their own folks, and I told a man that his father was in there,-

By Mr.Southern,-"Of course I object to all this because it is hearsay and not relevant to any issues in this case."

By Mr.Traber,-

I93 Q:-Well I asked him what he knew personally.,? A:-Well several men have told me,-

I94 Q:-Well It don't matter what "several men have told" you. That is not evidence,-what they told you is not evidence and it is not proper to state what they told you. You should only state what you know of your own knowledge,and nothing else. If there-was a judge sitting up there hearing this testimony he would tell you that it is improper to give such testimony,and would not permit you to do so. A:-Well they were there in that well,-there is no doubt of it,for I smelt them like an old dead horse in the spring when it thawed out and the warm weather came on. There is no doubt in the world but they were there,and afterwards I helped fill the well that was their grave up.

I95 Q:-You helped fill the well up? A:-Yes sir,the well, but I call it their grave too.

I96 Q:-What was your object in filling it up? A:-Well it smelt so bad and annoyed me so much,for it was within ten steps of my door and it stunk like a dead horse,and was so bad that I had to do it.

I97 Q:-Now you said you understood there was eighteen people in that well? A:-Yes sir.

I98 Q:-Now I believe you said there was a good many killed there at Hahn's mill? A:-Yes sir.

I99 Q:-And do you mean to say that all the people that were killed there at Hahn's mill were put in that well? A:-No sir,not all of them. There was this man Lewis that I told you of that was shot by this man through the shoulder blades,-he was killed and he was not put in this well at all.

200 Q:-Were all the rest of them put in there? A:-Yes sir that is what they said. I was well acquainted with Mr McBride's family. He was the gentleman that was cut with the corn knife. He was cut all to pieces in his own door.

20I Q:-How is that? A:-A man from Davies County by the name of Rogers,he belonged to that company that came there to fight the Mormons,and he cut Mr.McBride who was an old gentleman whom I never saw. He attacked him at his house and he ran down to the creek,and this man Rogers overtook him in the creek with a piece of a scythe or corn knife,-you have seen them and know what I mean,and he cut him all to pieces with it,and cut his head off. McBride's family were there when I came there and lived just over east of us.

202 Q:-Do you know anything further about the history of that man that you speak of having been cut up? A:-McBride?

203 Q:-Yes sir? A:-I got personally acquainted with his family afterwards and bought all their things when

they started to go away,and was in the house,me and Robert White when they went to move away,and bought the remnants they had,for they hadn't much left to sell when they went away.

204 Q:-Well what was done with his remains,-what was done with the remains of this man McBride? A:-His remains were put in that well,so the family told me. I know that much about it.

By Mr.Southern,-"All this is objected to as hearsay and irrelevant."

By Mr.Traber,-

205 Q:-Do you know anything about his family history? A:-No sir.

206 Q:-Do you know that he had been a soldier? A:-Who,-Mr McBride?

207 Q:-Yes sir? A:-With the Mormons?

208 Q:-No sir,in the war,or anywhere else? A:-No sir,I could not say anything about that,for they never told me anything about that

209 Q:-Well,that is all.

Witness fees paid by plaintiff as follows,-mileage,70 miles,and three-days attendance as a witness $II.50 in all.

~~2I~~ By Mr.Southern,-

2I0 Q:-Were you subpoenaed? A:-No sir.

By Mr.E.L.Kelley,-"We sent for him and he came on a subpoenae for the plaintiffs which was sent for him,but the officer failed to serve it."

A:-They told me that if I did not come they would subpoenae me if I did not come,and I told them I would come without a subpoenae if I had to come anyway.

Mrs. Mary Eaton,of lawful age,being produced,sworn and examined on the part of the plaintiff,testified as follows,-

Direct examination by Mr. Traber,-

I Q:-Where do you live Mrs Eaton? A:-Where do I live now?

2 Q:-Yes madam? A:-Well on the corner of Temple and Walnut streets in Independence,Missouri.

3 Q:-How long have you lived here in Independence? A:-Fifteen years about.

4 Q:-Where did you live prior to coming to Independence to live? A:-In Illinois,in DeKalb County.

5 Q:-Did you ever live in Caldwell County,Missouri? ~~A Q:-~~ A:-Well I believe it was Caldwell County. It was in DeWitt and I think that is in Caldwell County I stayed there for a while and then I was in Far West,Caldwell County?

6 Q:-Just state what time you lived in Far West,Caldwell County? A:-In I838 I believe it was. I don't know that I can state the exact time that they left there but I lived there in '38.

7 Q:-You went up to Far West? A:-Yes sir.

8 Q:-Well,what was the occasion of your going up to Far West? A:-Well it was designed to settle there. We went there with the design of ~~residing there~~ settling and residing there permanently.

9 Q:-Did you not in I838 live at Far West,and right in the place? A:-No sir,not right in the town. We did not live right in the city at that time. I might say that I did not live in the place at all,for we lived about five miles from there I think. South of that place about five miles was the place I lived.

I0 Q:-What time was that that you lived there? A:-That was the same year. We were only there one winter.

II Q:-In what part of the year was it that you lived five miles south of Far West? A:-Well that was,-I believe we came there in April and located the place,but we moved there in November I think.

I2 Q:-How old were you at that time Mrs. Eaton? A:-Twenty one I think.
I3 Q:-Ar that time you were twenty-one years of age? A:-I think so.
I4 Q:-Now at that time that you lived five miles south of Far West,just state what occasioned your leaving that place and going up to Far West,if any thing? A:-Well it was because a part of about forty men came to our house on horse back,-they came alongside of our yard,and came up barking like dogs,as near as they could imitate a dogs' bark,and they told us we must leave there,or we would smell thunder and lightning,-that was what they said; and then they asked for a drink of water and my mother got them the drink,and they said they were going to drive us into Far West. Neal Gillen was going into Far West,but he was going into it from the other side where they were going to drive us and they said they would give us hell,and we waited until it was a little dark and then we started for Far West.
I5 Q:-Did they attempt anything else while they were there at your premises? A:-No sir,only they inquired if we had any arms in the house,and we said we had not and they made some remark that Mormons were liars,or something like that,-I don't just remember the remark that they made,-that is,the exact words they used, but it was to the effect that Mormons were liars and not to be believed,-at any rate my mother said for them to come into the house,-no it was my father said for them to go in and search the house and see if there were any arms there,and they would not go in.
I6 Q:-How were these men dressed,-was it in a white blanket coat that they were dressed? A:-Yes sir,some of them seemed to be dressed in what seemed to be a coat made from a white blanket or something of that kind. It was the style of the country at that time to have coats made out of white blankets,for the country was a new country,and that kind of material was the easiest obtained and so for that reason most of the men wore it. They were in white blankets,and I don't know but what it was customary at that time to wear a leather belt,and if you would observe a man in those days the chances were that you would see his bowie knife stick in it,as they went hunting considerable in those days. This knife would be attached to the leather belt with a scabbard,but I did not notice it particularly to say if they had that on at that time,but I think at least some of them did.
I7 Q:-What was their behaviour at that time? A:-Nothing further than to say about what I have stated,and to tell us to leave there as I have stated,and giving us that reason that we should leave or we would have to leave
I8 Q:-Did they go away peacably? A:-No sir,they went away as they came imitating the barking of a dog as nearly as they could,and making all the noise they could in that way.
I9 Q:-They barked like dogs? A:-Yes sir,as nearly as men could do so.
20 Q:-That occurred out at the place you lived about five miles south of Far West? A:-Yes sir.
2I Q:-And from there you went to Far West? A:-Yes sir,we went as they ordered us to do.
22 Q:-They ordered you to go to Far West,and in accordance with that order you went? A:-Yes sir.
23 Q:-Well what happened up there at Far West? A:-Well, they surrounded us,-the prairies were black around Far West,you might say,and you could see men riding

to and fro over the prairies all around Far West,and the prairies were literally black with them.

24 Q:-Well what was done then? A:-Well they demanded that the Latter Day Saints surrender,and that they stack their arms,and they did it I think,-anyway that was the statement that I heard of it,for although I was there in Far West I did not see it. I can't tell much about what happened there at that time,for it was a time of such peril and confusion that I don't hardly know what was done.

25 Q:-Well did you leave Far West after that? A:-Yes sir.

26 Q:-Where did you go then? A:-We went back to the place again about five miles south of Far West.

27 Q:-You went out in the country again? A:-Yes sir,we went to our place in the country.

28 Q:-How long was it before you could go back? A:-Well I could not tell,but it must have been three or four days. I am not certain whether it was a week or less than a week. I hardly think though that it was a week that we were there before we went back again.

29 Q:-That was after the treaty had been made? A:-Yes sir and they had taken of what they termed "the authorities" of the church. They took them away from the city,and then they gave us permission to go back to our homes again.

30 Q:-Was there any conditions attached to that permission to return to your homes again? A:-Yes sir,they told us to leave the country in the spring,or before the spring if we saw fit,and to never attempt to put a plow in the ground again,but to leave in the spring, and that is what we agreed to do,and that is what we did do.

31 Q:-That was the orders,that you were to leave the country in the spring? A:-Yes sir.

32 Q:-And not return to it any more? A:-Yes sir. That was the orders and general talk as I understood it. I did not hear these orders given but I don't think there is any doubt but that is the order that was given,for we did all leave in the spring,and some went in the winter.

33 Q:-Do you know whether that was the order of General Clarke at that time,or the generals that were there? A:-I think so.

34 Q:-Do you remember any of them that were there? That is,any of the generals? A:-No sir,I did not see any of them,for I had retired in my tent,and only know what I heard from the general conversation that was going on there at the time. I did not see ahy of the generals that were in command there at the time that I know of,but I saw the men that were there all around the city on every side. I saw them frequently on horse-back in every direction,moving around to different places.

35 Q:-Were there people there that were given any permission to stay to your knowledge? I mean those termed Mormons? A:-No I think not. I think they were all ordered to leave in the spring. The common conversation was that they all had to leave and none should put a plow in the ground in the spring. They were not to cultivate their farms or think of staying there.

36 Q:-Then they all did prepare themselves and leave the county,so far as your knowledge goes? A:-Yes sir,and the state,-I think they were to leave the state.

37 Q:-What time did you leave? A:-Well I don't know what day in April it was that we left,but it was some time in the month of April after the grass was up about as it is now when we started. We waited until the grass was up pretty well so that we could feed our teams. I know my father owned a farm there and we had to leave that.

38 Q:-Were you acquainted afterwards with a man by the name of Granville Hedrick? A:-Yes sir.
39 Q:-Where did you make his acquaintance? A:-Well I first became acquainted with him in Illinois when he came to DeKalb.
40 Q:-Did you know him here in Independence? A:-Yes sir, I heard him speak frequently here.
4I Q:-You heard him preach several times you say? A:-Yes sir.
42 Q:-Did he ever preach in your house? A:-Yes sir,several times he preached there.
43 Q:-About how many times? A:-I could not tell you now how many times he did preach there.
44 Q:-Look at this book marked Exhibit "W" snd state if you ever saw that book before? A:-Yes sir.
45 Q:-You have seen that book before? A:-Yes sir,I have seen it frequently.
46 Q:-What is it? A:-It is one of Hedrick's productions.
47 Q:-Is that the same Granville Hedrick that used to speak or preach in your house? A:-Yes sir,I presume so. I never heard of any other Granville Hedrick. There was no dispute amongst his people there but that he was the author of this book.
48 Q:-You have seen this book or a book like it before have you not? A:-Yes sir.
49 Q:-Where did you see it,-that is,where did you see that book or one like it before? A:-Well my husband owned one like it at my house,and of course we had that one there.
50 Q:-Is that husband you refer to,Mr. Eaton? A:-Yes sir.
5I Q:-What church did he belong to? A:-He belonged to the Hedrickite church.
52 Q:-He belonged to the Hedrickite church? A:-Yes sir.
53 Q:-And he had one of these books? A:-Yes sir.
54 Q:-Did he have more than one? A:-Yes sir.
55 Q:-He had a number of them did he not? A:-Yes sir.
56 Q:-Was this Granville Hedrick that preached there at your house on these occasions,the founder of what is known as the Hedrickite church,or the leader of it at that time? A:-Yes sir,and it was so understood in all the papers and books published.
57 Q:-That is all I care to ask the witness at this time.
Cross examination by Mr.Southern,-
58 Q:-Explain what you mean Mrs. Eaton by the Hedrickite church,-explain what you mean by that term as applied to a church? A:-Well I mean the church that Granville Hedrick was the leader of.
59 Q:-That was the church? A:-Yes sir,and it was called Hedrickite,because he was its leader and the President of it.
60 Q:-He was the President of the Hedrickite church,-is that what you say? A:-Yes sir,he was at that time.
6i Well give any further explanation of what the Hedrickite church was,if you know of any? A:-Well according to the book that was written they did not have very much time,-
62 Q:-Well I am asking you as to the people of the Hedrickite church? A:-Well they were good moral people as far as I know.
63 Q:-Well I am not asking you about that,-well let that pass,-he was the leader of that church,was he not? A:-Yes sir.
64 Q:-Well did they have any name besides Hedrickite? A:-Well there was,-they were commonly understood by that name,-that is the name they commonly went by.

65 Q:-Did they belong to the re-organized church of Jesus Christ of Latter Day Saints? A:-No sir.
66 Q:-They did not? A:-No sir,never to my knowledge.
67 Q:-Where did they worship? A:-Well they worshipped first at one place and then another. They came frequently to my place. They worshipped there frequently,and they have held their conferences there.
68 Q:-Held conferences there? A:-Yes sir.
69 Q:-Where? A:-At my house.
70 Q:-And worshipped there also? A:-Yes sir,and they had worship in other places also. They did not always worshipp at my house,but they also worshipped in other private houses belonging to other people,-but as I said they worshipped oftener at my house than at any one else's house.
7I Q:-Did they afterwards have a place of worship besides your house and the houses of these other people? A:-Not any excepting the little church they have lately built.
72 Q:-At what time was this that you knew Granville Hedrick? A:-The time I first knew him,-the time I first made his acquaintance?
73 Q:-Yes,madam,-when did you first make the acquaintance of Granville Hedrick? A:-I first knew him in Illinois,I stated,-
74 Q:-Wait a moment,madam,I desire to amend my question by saying or asking you when you first knew him as a leader in the church,-or I should say,as a leader of that church? A:-Well it was not until I867.
75 Q:-About I867 you first knew Granville Hedrick a leader in that church,-as a leader of that church? A:-Yes sir,I think so. Yes it was in I867,-but let me see,-no I am mistaken in that,-no sir,it was not I867,-it was the Centennial year,-in '76,that is what I meant to get at.
76 Q:-It was in the Centennial year? A:-Yes sir.
77 Q:-And that is when you first knew him as a leader of that church? A:-Yes sir,but he was not an elder in the church when we first went to Illinois. I saw him there then and he was not a leader in the church then that I know of,but when I came to live in Independence here,why then I became acquainted with him.
78 Q:-When did you come to Independence first? A:-In I876.
79 Q:-To live? A:-Yes sir.
80 Q:-Has there been a church here of that kind ever since you came here? A:-Yes sir,there has been people here called the "Hedrickite church",but they did not meet ,-they did not have meetings when I first came here regularly,-I think when I first came here they had meetings but once a month,and at first after I came here they met once in every two weeks.
6I Q:-Can you mention any more parties who were members of that organization? A:-At that time?
62 Q:-Yes,madam,-can you mention any more parties that were members of that organization at that time and now? A:-I cannot tell now because I have not been in their church for some time,but then there was Adna Haldeman and his family.
63 Q:-How many were in his family? A:-Well there was his wife,and I don't know but there was his two sons too I think they belonged to that organization also,and there,-well the two sons did not belong to it when I first came here,but they joined afterwards,-and there was Richard Hill.

84 Q:-Richard Hill who lives here in Independence now? A:-Yes sir,I suppose so.
85 Q:-He is the black-smith here? A:-Yes sir,the waggoner here. He belonged to it with his wife.
86 Q:-Is that all? Did not your husband William Eaton also belong to it? A:-Yes sir,my husband belonged to it too when I first came here. I do not know whether he joined it or not when the church was first organized but he belonged to it anyway when I first came here in '76.
87 Q:-Did you marry him here? A:-No sir.
88 Q:-Where were you and Mr.Eaton married? A:-I married him in DeKalb County,Illinois,and came here with him soon afterwards.
89 Q:-Did George Frisbee belong to it also? Didn't he belong to it also? A:-Yes sir.George Frisbee belonged to it too. I can't remember these names unless I am reminded of them,but when you mention them I recognize them.
90 Q :-Was there any body else of that name,-his wife,-for instance,that also belonged to the church? A:-Yes sir,his wife belonged to it also.
9I Q:-You recollect that they belonged to it? A:-Yes sir.
92 Q:-Did Daniel Border belong to it also? A:-Yes sir, Daniel Border belonged to it,and there was orhers,-I think that Elder Montgomery belonged to it also.
93 Q:-You speak of people who were members away back of that time? A:-Yes sir.
94 Q:-And have continued members since that time? A:-No sir.
95 Q:-They have not? A:-No sir.
96 Q:-I don't understand that answer,-what do you mean? A:-Well several of them have left,so I have heard.
97 Q:-Well those you have spoken of here,-you have spoken of Mr. Hill and Mr.Frisbey and Daniel Border? A:-Yes sir.
98 Q:-And others? A:-Yes sir.
99 Q:-They have not left have they? A:-I think Daniel Border still belongs to it,but his wife has left the church.
I00 Q:-Now your husband is not now living,-he is not living at the present time? A:-No sir,he is dead.
I0I Q:-He died a member of that church didn't he? A:-Yes sir,he died a member of that church. He died four years after that,and was a member at the time he died
I02 Q:-He died four years after you came here? A:-Yes sir.
I03 Q:-And then as a matter of necessity since,you,-you are not so well acquainted with the people who joined the church in the latter years,are you? A:-No sir,I do not know them. I have heard that a great number of them have left the church,but I do not know it of my own knowledge.
I04 Q:-You don't know how many are now in the church,or how many are out of it? A:-No sir,I know some that are out of it and some that are in it yet,but I do not know the number of each decidedly.
I05 Q:-Were you at,-you said you were at Far West,I believe? A:-Yes sir.
I06 Q:-In I838 that was? A:-Yes sir.
I07 Q:-And you said you left there in that year? A:-I left there in the spring of '39 I think.
I08 Q:-You left Caldwell County in the spring of I839 you say? A:-Yes sir.
I09 Q:-What year was it that you were surrounded there at Far West? A:-Well that must have been in '38,-I think it was in November in the year I838 if I am

not greatly mistaken in my dates,and I do not think I am.
II0 Q:-I believe you stated that they took off some people at that time as prisoners? A:-Yes sir.
III Q:-That is,the people that surrounded you took them off as prisoners? A:-Yes sir,after the surrender they were taken away and put in jail,I understood.
II2 Q:-Do you know who these parties were? A:-That took them off?
II3 Q:-No,the ones that were taken away and put in jail? A:-Well one was Joseph Smith and another was Ebenezer Page,and Alexander McRae,-and,-I cannot tell all their names. There was Sydney Rigdon,and I do not know whether Lyman Wight was among the number or not. I can't tell the names of all of them,but that was some of them anyway.
II4 Q:-Did you know all these parties? A:-Yes sir.
II5 Q:-Did you know a party by the name of Gates there? A:-No t there I don't think.
II6 Q:-You did not know him there? A:-No sir.
II7 Q:-That is at Far West? A:-No sir,I did not know him there,I think.
II8 Q:-Where did you know a party by the name of Gates? A:-Yates?
II9 Q:-No, G a t e s? A:-No sir,I did not know any party by the name of Gates,for I was retired and not acquainted much with what was going on,-my chief acquaintance with things was through the medium of conversation.
I20 Q:-Did you know Elias Higbee? A:-There at Far Wsst?
I2I Q:-Yes,madam? A:-No sir,I did not know him there. I did not know him until we were in Nauvoo. I don't think I knew Elias Higbee there at Far West,but I might have known him when I would see him and not remember it,but I did get acquainted with him at Nauvoo. Well now I cannot say that I knew him at Nauvoo,fot all that I knew of him was by common public observation of the man and his doings,for I didn't know him personally.
I22 Q:-You never knew him personally? A:-No sir.
I23 Q:-When did you live at Nauvoo? A:-Well it would be in I839 that we went there first,I believe.
I24 Q:-What is that answer? A:-In '39,I believe,-yes,and in 40 too. I lived there a part of the time in I840 I taught school that season six miles out in the country at Golden Point,which is,I believe,six miles west of Nauvoo,but I was partially acquainted with the people at Nauvoo and went to meeting frequently at Nauvoo,but I did not live there.
I25 Q:-Did you belong to the church there? A:-Yes sir.
I26 Q:-Were you married while you lived there? A:-At Nauvoo?
I27 Q:-Yes madam? A:-Yes sir.
I28 Q:-To whom were you married? A:-To John E. Page.
I29 Q:-How long were you at Nauvoo and in that neighborhood? A:-In the neighborhood?
I30 Q:-Yes ma'am? A:-Well I taught school six months at Golden Point,for I was there six months.
I3I Q:-How far was that from Nauvoo? A:-Well it was about six miles west,I think.
I32 Q:-You did not live in Nauvoo during that time? A:-No sir,but I was there frequently attending meetings and such things.
I33 Q:-Well how long did you live in Nauvoo altogether? A:-Well in all I did not live there but about two months.
I34 Q:-Well I asked you about how long you were in the neighborhood of Nauvoo,before you left there finally?

A:-Well I was there in the country six months teaching school at Golden Point,but during that time I was frequently in Nauvoo,as I went there to meeting. I lived there twice,-at two different times,but I can't tell just the number of weeks or months I was there,I can't tell that for it has been a great many years ago,and it is utterly impossible for me to do so.

I35 Q:-You say you were there twice,-on two different occasions,to live? A:-Yes sir.

I36 Q:-And the first time you were there was the time you taught school at this place? A:-It was just before that. I went from Nauvoo to Golden Point to teach school.

I37 Q:-Well when were you there the second time? A:-It was in I845,-'45 or '46,-in '45 or '46 was the second time I was there.

I38 Q:-Was your membershi p there in the church all the time? A:-Yes sir.

I39 Q:-All the time from '39,when you first went there to Nauvoo,I believu you stated it,-was your membership there in the church all the time from that time until I846? A:-Yes sir.

I40 Q:-Well when did you leave there the second time? A:-It was in ~~X~~ '46.

I4I Q:-That is when you left Nauvoo? A:-Yes sir,

I42 Q:-And in '76 I believe you said it was you stated you left Illinois? A:-Yes sir.

I43 Q:-Do you recollect the time that Joseph Smith was killed? A:-Yes sir.

I44 Q:-Well,where were you at that time? A:-I was in the city of Pittsburg.

I45 Q:-In the state of Pennsylvania? A:-Yes sir.

I46 Q:-Did you know Joseph Smith A:-Yes sir.

I47 Q:-You did? A:-Yes sir,and I conversed with him frequently in his life-time.

I48 Q:-Did you know his wife? A:-Yes sir.

I49 Q:-Were you ever at their place? A:-Yes sir,I knew him and his wife and have been at that their house.

I50 Q:-When was the last time you saw Joseph Smith? A:-I can't tell for of course I did not keep track of that.

I5I Q:-In about what time,-what year? A:-Well it was in,-I think in I840 if I am not mistaken.

I52 Q:-What time in the year was it? A:-Well if I am not greatly mistaken it was in the spring of the year for I left for Pittsburg in the spring of the year and it was just before I left that I saw him. I remember being at his house before we left for Pittsburg,but I can't state any time positively as the time that I was there.

I53 Q:-Did you become a member of the church at Nauvoo? A:-No sir,it was not necessary for me to become a member of the church there,as I was a member of the church when I went there. I had been a member of the church all the time from I836.

I54 Q:-When did you first become a member of the church and where? A:-I joined the church in October I836 in Canada,in what was then called "upper Canada,near the city of Brockville,and I always have belonged to the church since that time.

I55 Q:-What church did you join there? A:-The church of Christ of Latter Day Saints,-I think it was called,-no it was the church of Jesus Christ of Latter Day Saints,-I think that is what it was termed then.

I56 Q:-What year was that? A:-What year?
157-In what year was that,-that is the question I asked you?
A:-That I was baptized?
I58 Q:-Yes ma'am? A:-It was in 1836 on the 8th day of October. No,-yes it was in 1836 too.
I59 Q:-When were you baptized? A:-That was the date I was baptized. It was on the 8th day of October 1836.
I60 Q:-Now did you know any of the twelve in Nauvoo?
A:-Yes sir.
I6I Q:-You did? A:-Yes sir,I believe I knew them all there,-every one of them. I think I knew them all, but I was only slightly acquainted with Parley Pratt for he was gone preaching then,but I saw him when he was there,and became acquainted with him after I went to Nauvoo,but I seen the others frequently.
I62 Q:-Where were they at that time? A:,They were preaching in different parts of the country at that time, but they would be there at Nauvoo sometimes,and when they were in Pittsburg when we were there they would call on us frequently. They called on us several times when we were there. They did not all call on us there,but a number of them did.
I63 Q:-A number of whom called on you? A:-Tat is of the twelve.
I64 Q:-Was your husband a member of any of the quorums of the church? A:-Yes sir.
I65 Q:-Of what quorum was he a member? A:-He was one of the twelve at that time.
I66 Q:-At what time was that? A:-He was a member of the twelve in the old church before it was rejected and went to Salt Lake.
I67 Q:-Now as I understand you the church moved from Far West to Nauvoo,and it was necessary for you to rejoin the church ~~XX~~ there at Nauvoo? A:-No sir?
I68 Q:-Because the church moved from Far West to Nauvoo,-because the church moved as a body? A:-Yes sir,the church moved as a body,but I don't know,-there may have been a few remained there at Far West,but the church as a body was ordered to leave there.
I69 Q:-Yes madam,we have no question about that,-that is admitted,but what I wanted to bring out Mrs.Eaton, was that the reason there was no re-joining of the church at Nauvoo by yourself and others,was because the church had removed to Nauvoo? A:-No sir,it is not the reason.
I70 Q:-That is not the reason? A:-No sir.
I7I Q:-Why is it not the reason? A:-No sir,that is not the reason,for after we joined the church in the first instance and were baptized,there was no,-we always belonged to the true church,no matter where it was,and do to this day. That is the way it is and if we rejected the authority of some of the assumed leaders and chose to go by ourselves that did not make any difference,for we would still belong to the church.
I72 Q:-This church that was at Nauvoo was the same church that was at Far West was it not? A:-Yes sir. That is the way I understand it sir,-it was the same church and the fact of its removal didn't make any difference.
I73 Q:-That is the way you regard it then? A:-Yes sir, that is the way I look at it.
I74 Q:-You will understand,madam,that by these questions I do not mean any dis-respect or impertinance,for I am just simply a lawyer representing one side of the case,and I undertake to examine witnesses when I examine them,-I undertake to examine them respectfully always. I want to assere this lady that these questions are not asked from any spirit of curiosity

or impertinence,but simply from a regard of what I consider the best interests of my clients and I want to be understood on that point beyond the possibility of being misunderstood. Now after the church went to Nauvoo from Far West,it remained there at Nauvoo for several years did it not? A:-Yes sir.

I75 Q:-Then where did it go? A:-Where did it go?

I76 Q:-Yes madam,I understood you to say it went somewhere,and I want to know now where it went after it left Nauvoo?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immatereia,and improper cross examination.

I77 Q:-Very well,-I will ask you then where the church went from Nauvoo? A:-A Part of them went off to Salt Lake,and a very great many of them did not go there.

I78 Q:-Who went to Salt Lake of the twelve,-if any?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial,and improper cross examinatio

I79 Q:-Do you know?

If you do not know I will not press the question. You said you knew all the members of the twelve,you thought,and ~~R~~ I thought in all probability you might know who of them went to Salt Lake City with the faction that went there? A:-Well one was killed in St. Louis,and I knew some others that did not go to Salt Lake City with the party that went under the leadership of Brigham Young. My husband did not go for one.

I80 Q:-Well who else of the twelve did not go? A:-Well there was William Smith. He didn't go either.

I8I Q:-You think William Smith did not go? A:-I don't think anytging about it. I know he did not go.

I82 Q:-Well who else do you call to mind that did not go? A:-Well there was Lyman Wight. He did not go.

I83 Q:-Can you call to mind any one else that did not go? A:-Well I do not think of any one else now.

I84 Q:-Who was the head of the church at that time,if you know? A:-It did not have any head.

I85 Q:-Do you say it did not have any head at that time? A:-No sir,no more than they called themselves the head.

I86 Q:-They called themselves the head,-whom do you refer to by "they"? A:-The twelve,or what was left of them.

I86 Q:-Well you say there was a portion of the twelve and some of the members did not go with them to Salt ~~Lake~~ Lake? A:-Yes sir,there was quite a number of the members of the church that did not go. They were not ordered to go,and they stayed in this country all that chose to do so.

I88 Q:-Well have you any idea of the proportion of the membership of the church that went to Salt Lake? A:-No sir,I can't state that. I only know what I heard,and I cannot speak as a person having knowledge for I was not there at the time,and so I do not know how many went or how many remained.

I89 Well afterwards I understand you to say that you went out into another part of Illinois,into DeKalb County A:-Yes sir.

I90 Q:-You and your husband? A:-Yes sir.

I9I Q:-You went with your husband? A:-Yes sir,we left there.

I92 Q:-Well what year did you go there,-or about what year? I do not wish to worry you madam,but I believe It is important that these facts should be elicited or I would not ask the questions? A:-I do not know

that I can tell you what year it was.
I93 Q:-You can't state the year that you went there?
A:-That we tent to DeKalb County?
I94 Q:-Yes madam? A:-No sir I can't state the year.
I95 Q:-Well you say,-first I will ask you did you have an organization,-did you belong to an organization,or did you have a meeting place and church organization out there in DeKalb County?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent and immaterial and irrelevant and improper cross examination.
A:-No sir,there was no church there. There was a few members there but there was no meeting place or church organization there.
I96 Q:-Then when was the first time that you had membership with a number of the members of the church meeting together after you left Nauvoo? A:-Well then we went to Wisconsin and there was some members of the church there,but I was not identified with them that I know of,only I met with them some times.
I97 Q:-It was in Illinois I believe you stated that you first met with Granville Hedrick? A:-Yes sir.
I98 Q:-Well where was the first place you met with Granville Hedrick? A:-In DeKalb County,-or I should say in DeKalb township. The town was called DeKalb for it was the center of the county.
I99 Q:-Did you meet with him there in the capacity of a minister or preacher or teacher,or what was his purpose there?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and not proper cross examination and calls for an opinion of the witness.
A:-What was your question,please?
200 Q:-The question was,in that capacity did you meet with Granville Hedrick there,-what was his business? What was he doing,in other words? A:-Why he came there to get my husband,Mr.Page to come to Bloomington,and he persuaded him to go and preach there.
20I Q:-At Bloomington? A:-Yes sir,and about Bloomington.
202 Q:-Did they have a church organization there? A:-At Bloomington?
203 Q:-Yes,and about Bloomington,or anywhere there in that neighborhood? A:-I do not know,for I did not go there. Mr.Page went there and stayed some time,but I did not go with him.
204 Q:-Well where did you first know the church called the "Hedrickites"? A:-I knew them in Independence, Missouri.
205 Q:-Here in Independence was the first time you knew them? A:-Yes sir,and I never saw but two of them until I came here,and that was Granville Hedrick and Jedediah Owens.
206 Q:-Did or did not Mr.Page belong to the "Hedrickites"? A:-I think he did,but I was not present though when he joined them,if he ever did.
207 Q:-Where did he join them,if you know? A:-I say that I don't know that he ever joined them I don't know anything of their organization,that is,I was not present,and I don't know anything about it only from common talk.
208 Q:-Well,that is all.
Re-direct examination by Mr.E.L. Kelley,-
209 Q:-Are you a member of ahy church now,Mrs.Eaton?
A:-Yes sir.
2I0 Q:-Of what church are you now a member? A:-Of the re-organized church of Latter Day Saints.
2II Q:-Is it the same church organization in faith and doctrine as you originally united with in I836?
A:-Yes sir. I do not know of any difference.

2I2 Q:-When you speak of the "Hedrickites" do you mean those people here in the city of Independence that call themselves the "Church of Christ"? A:-I guess so. Yes,I suppose that is the name they call themselves. They don't call themselves any particular name that I know of.

Re-cross examination by Mr.Southern,-

2I3 Q:-Mrs.Eaton,is the Hedrickite church,which we call the "Church of Christ" the same church as the re-organized Church of Latter Day Saints?

Counsel fot the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent and immaterial.

A:-No sir.

2I4 Q:-It is not? A:-No sir,it is not the same church?

2I5 Q:-You belonged,however,to that Hedrickite church?

A:-I belonged to it,-is that what you asked me?

2i6 Q:-Yes madam,that is the question? A:-No sir,I never belonged to it.

2I7 Q:-You never did? A:-No sir,and I never had any leaning that way at all. I never had any leaning that way and I never had any desire to belong to it.

2I8 Q:-Well I thought you did,but I see that I was mistaken about that? A:-Yes sir,you certainly are mistaken,for I never belongeb to it or had any leaning towards it,or desire to belong to it.

2I9 Q:-But your husband Mr.Page,did belong to it? A:-Yes sir,as I understood it he did.They came there to where we were living in DeKalb and persuaded him to go theer to Bloomington where I heard they had an organization,but I do not know anything about it only what I heard.

220 Q:-Your husband Mr. Page,died in about what year? A:-Mr.Page died in '48 I think it is recorded,but I cannot state it exactly from memory.

22I Q:-And when were you married to Mr. Eaton? A:-I was married to Mr.Eaton in '76.

222 Q:-And Mr.Eaton also belonged to the Hedrickite church A:-Yes sir,he did. That was the first acquaintance I had with that church you might say,when I married, or after I married him.

223 Q:-Did you undertake to state a while ago in your direct examination who was the leader of the Hedrickite church? A:-Why the general understanding was that it was Granville Hedrick. He was the one that used to come to my house to meeting. I never knew an other Granville Hedrick but the one that used to come there to meeting.

224 Q:-Did you know any other Hedrick at that time connected with the church affairs? A:-Well no,I believe not. I was not acquainted with John Hedrick.

225 Q:You were not acquainted with John H. Hedrick? A:-No sir. There was a man I believe,by the name of George Hedrick also,but I was not acquainted with him.

226 Q:-Do you know what was meant by endowments in the church Mrs.Eaton? A:-Endowments?

227 Q:-Yes madam?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial and not cross examination.

A:-What is the question?

228 Q:-Do you know what was meant or what is meant by endowments in the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination.

A:-Endowments in the bible is spoken of as endowments by the Holy Spirit.

229 Q:-Do you know what was meant by it in the church?

A:-Oh,in the church we have twelve heads. The church had twelve heads and I suppose they had an endowment.

230 Q:-Well I am not going to try and run you into these learned matters about doctrine,but I ask you if you know anything about endowments personally,-anything personally about endowments in the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent irrelevant and immaterial,and not proper re-cross examination.

231 Q:-Do you know anything personally about endowments in the church while at Nauvoo,or in the church at any other place?

Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.

A:-I never heard of any any where else except what the bible speaks of.

232 Q:-Well do you know of endowments practiced anywhere else,-practiced as the bible speaks of them? Do you know of them being practiced anywhere else,-or any where at all?

Counsel for the plaintiff objects to the question on ~~ta~~ the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination.

A:-Well no,not altogether the same. It is not altogether similar to the bible endowments.

233 Q:-Well what were the endowments? In what respect did they differ from the endowments of which you speak,-in what respect did they differ from the bible endowments? A:-Well I don't know of any church that had such a great number at a time. While the Spirit rested on them they spoke in tongues and prophesied, for I have heard them individually speak in tongues and prophesy,but I never knew of as many at one time being endowed with the Holy Spirit as at these times

234 Q:-Well do you know these things Mrs.Eaton,personally and practically? A:-Yes sir.

235 Q:-Where? A:-Well I have known of these things in Canada and elsewhere. Always where the church was there was more or less of that only perhaps in not so great a degree. One hundred and twenty is the number of the apostolic church,-

236 Q:-Do you know of any endowments had at Nauvoo?

A:-I don't know of any. I never knew of any there. I never knew of any endowments there. There might have been some,but I never knew of any real endowments there,-

237 Q:-At any time? You were there from 1839 to '40 and in X '47,I believe you stated?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and improper cros examination.

A:-No sir,I was not there. You asked me if I returned there again,and I did,but I was not there in '47 nor in '46.

238 Q:-Did you ever receive anything like what they called endowments in Nauvoo? A:-I never received the proper endowment there,-what you would call the proper endowment I never received there.

239 Q:-Have you any objection to stating whst the endowments received at Nauvoo were?
Counsel for plaintiff objects to question asked the witon the ground and for the reason that it is incompetent irrelevant and immaterial,and not proper cross examination.
A:-I don't know as it is anything that belongs to the church at the present time. I don't know that it belongs to the church at the present time in any way,and I never went through all their endowments there. My husband from what little he saw of it said it was of the devil and so we rejected it.
240 Q:-Then you never went through all of it? A:-No sir, not all of it,for my husband from what he saw of it did not believe in it,but said it was of the devil. That was afterJoseph died.
241 Q:-I am not doubting anything you say regarding it madam? A:-Well personally I do not know much about it.
242 Q:-Well you never went through all of it? A:-No sir.
243 Q:-Now have you ever seen anything in the re-organized church like the endowments you saw at Nauvoo?
A:-No sir-never anything like it. I never saw anything other than the endowments spoken of in the bible when it says they spoke with tongues and prophesied. We do not pretend to anything different from that and don't permit or countenance anything else in in any shape or manner. That is all the endowment I know of in the re-organized church and we do not permit anything else either.
244 Q:-When did you,if at all,know of the practice of plurality of wives,-or the preaching of the doctrine of plurality of wives? A:-I never heard it preached while Joseph lived.
245 Q:-You never did? A:-No sir,not while he lived.
246 Q:-Well that is not an answer to my question,for my question was when did you first hear the doctrine of plurality of wives preached or taught,if at all?
A:-Oh I heard some talk like that,-sometalk like that after Joseph died,among the people,but I never did hear anything about it while Joseph lived. At the time I was away with my husband at Pittsburg for he was a minister or preacher in the church and that was where he was atationed,-at the city of Pittsburg.
247 Q:-I believe you stated madam that you never left Nauvoo until at the time of the breaking up of the church there? A:-Well I left there in 1846 abd that was about the time of the breaking up of the church. I don't know either that I can say that it was the time of the breaking up of the church for they had not all left there at that time,-there was only a few of them had gone from there when I left there.
248 Q:-Were you at any of their conferences at Nauvoo?
A:-Oh yes,I have been at several conferences.
247 Q:-Were you ever present when William Smith preached?
A:-Yes sir.
248 Q:-Where did you ever hear him preach? A:-I have heard him preach there in Nauvoo. They met out doors there in the warm weather and I have heard him preach there.
By Mr.E.L.Kelley,-"We object to all these questions and the answers to them as immaterial,incompetent and not cross-examination,unless they are confined to the old church."
By Mr.Southern,-
249 Q:-I do not understand that the old church as you term it,stopped at that time,as I assume you claim it did and which claim we did not admit,and so our questions go to a time after that,so there is a difference in

theory between us you see on that question? Now ~~that~~ did you hear that doctrine preached by William Smith A:-No sir.

250 Q:-You did not? A:-No sir I never did at any time.

251 Q:-Do you know anything personally about it madam,-do you call to mind any thing at all that you may know about it? A:-No sir,I never heard anything of the kind preached by William Smith. Of that I am positive. William Smith preached the prophecies of the bible when I heard him,and didn't say anything about plural marriage.

252 Q:-Do you know anything about baptism for the dead as practiced at Nauvoo? A:-Oh I heard some such talk as that when I was there.

253 Q:-Well do you know anything about it personally madam? Do you call to mind anything you know about it? If you can please do so and state what it is? A:-Yes sir,I know something about it. I have seen some baptized there.

254 Q:-At Nauvoo? A:-Yes sir,

255 Q:-You have seen some baptized for the dead there? A:-Yes sir-

256 Q:-You say "some". Now I would be glad if you would give me some estimate of the probable number that you have seen so baptized for the dead? A:-I do not remember the number.

257 Q:-Do you remember whom you saw perform the baptism for the dead? A:-I remember one minister.

258 Q:-Who was he? A:-His anme was Giles Savage. He is dead now.

259 Q:-About what year was that, Mrs.Eaton? A:-I don't know that I can tell the year,but it was probably about 1840. I am not sure as to the year,and cannot tell when it was.

260 Q:-Well did you see as many as a dozen baptisms for the dead? A:-I never took pains to count them.

261 Q:-Well it was at Nauvoo was it not,where you saw this? A:-Yes sir.

Counsel for the plaintiff objects to all this line of examination regarding the matter of baptism for the dead,on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not cross examination.

262 Q:-Well now Mrs.Eaton,I will enquire of you,if you have ever seen any baptisms for the dead practiced in the re-organized church of Jesus Christ of Latter Day Saints,of which you say you are a member? A:-No sir.

263 Q:-You have never seen that? A:-No sir.

264 Q:-How long is it since you became a member of the Re-organized church of Jesus Christ of Latter Day Saints? A:-I do not think that I can state now without looking at the record at home,

265 Q:-Where did you first become a member of that church A:-I became a member of the church in 1836.

266 Q:-I mean when did you become a member of the re-organized church of Jesus Christ of Latter Day Saints. A:-Oh I united with them to become a member,-I sent my name in to them,believing they were the church and united with them.

267 Q:-Well when was that? A:-I do not think I can tell.

268 Q:-Was it here at this place? A:-In Independence?

269 Q:-Yes Madam? A:-No sir.

270 Q:-It was before you came here? A:-Yes sir. I can't tell now just when it was,but at home I have some memorandum and letters concerning it,but I can't remember the date I joined the re-organized church from memory.

271 Q:-Do you know anything about what is called the "patriarchial blessing"? A:-No sir only it was the same as they had in the days of Moses,as I understand it.
272 Q:- DId you ever receive that Mrs.Eaton?
Counsel for the plaintiff objects to the question asked the witness and to all questions that may be asked her regarding the patriarchial blessing for the reason that it is incompetent,irrelevant and immaterial and not proper cross examination.
A:-Oh yes,I received a blessing from old Father Smith. He laid his hands on my head and prophesied regarding the future.
273 Q:-Whese was that? A:-That he did that?
274 Q:-Yes ma'am? A:-That was at Nauvoo.
275 Q:-Was the same blessing conferred upon others? A:-Yes sir.
276 Q:-What is that? A:-Yes sir.
277 Q:-At Nauvoo? A:-Yes sir.
278 Q:-And you have seen it conferred? A:-Yes sir.
279 Q:-Have you ever seen that same blessing conferred in the re-organized church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and not proper cross examination.
A What was the question?
280 Q:-Have you ever seen that same blessing conferred in the re-organized church of Jesus Christ of Latter Day Saints,-have you ever seen that same blessing conferred by any one in the same way,since you have been a member of it? A:-I don't know that I have seen it since I have been a member of it.
281 Q:-Do you know really whether they have any patriarch or not? A:-All men are patriarchs over their own families,so the bible states.
282 Q:-Well please answer the question,-is there any patriarch in the re-organized church of Jesus Christ of Latter Day Saints? A:-I do not know of any.
283 Q:-Is it a fact then that they are the same as the old church without that?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetant irrelevant and immaterial,and not cross examination and calls for an opinion of the witness ohly.
284 Q:-I understood you to say that you never heard of or knew of any one holding that position,-that is,the position of patriarch,in the re-organized church of Jesus Christ of Latter Day Saints? A:-No sir,only the bible authorizes any man to be a patriarch over his own family according to the old custom.
Re-direct examination by Mr.Kelley,-
285 In your cross examination Mrs.Eaton,you were asked about endowments at Nauvoo? A:-Yes sir.
286 In what way did you know of any endowments at Nauvoo, or pretended endowments? A:-In what way.
287 Q:-In what year I should say? A:-It was in 1846. I think it was in '46.
288 Q:-Did you ever know anything of the kind in 1844?
Counsel foe the defendants objects to the question on the ground that is leading.
A:-I never knew anything of it anywhere,or heard of it until I saw it practiced there.
288 Q:-And that was in 1846?

Counsel for the defenbants objects to the question on the ground that it is leading.

289 Q:-Well,in what year was it that you first saw it,or knew of it? A:-In '46. It was never practiced in the church before that.

Re-cross examination by Mr.Southern,-

290 Q:-Did you not in your examination ✱ a while ago say that you knew of the endowments,and received yours in 1840 at Nauvoo,-that you witnessed them and received them partially? A:-I said I had never been through all the endowments in 1846,-I did not say anything about 1840,for there was nothing of the kind in 1840.

291 Q:-So you do not remember to have testified here at any time today,that you received your endowments partially in 1840? A:-That I did not receive all the endowments I told you. That is what I told you.

292 Q:-In 1840? A:-Yes sir,I told you that I never received them all. I did not receive them ✱ all at that time,for there was nothing of the kind in 1840.

293 Q:-Is that what you mean to say,-that you did not know anything about all the endowments in 1840? Is that what I understand you to say? A:-Yes sir,there was nothing of the kind in the church in 1840,but in 1846 there was a kind of a sham curiosity of an endowment there,but I said that I did not go through it all.

294 Q:-Well I want you to be distinct and definite in your answer as to whether or not you knew anything about endowments of any kind being in the church there in 1840, '42 or along about that time? A:-No sir,I never saw it or heard of it in the church at any time at Nauvoo or anywhere else until after the time that Joseph died and the twelve were ruling there. I told you that my husband said that all that endowment business was nonsense and of the devil,and so we never talked about or cared about it,and did not believe in it at all.

285 Q:-Well I might ask you another question,and that is why you and your husband left Nauvoo? Now will you please state that if these gentlemen do not object?

By Mr.Kelley,-" We don't object."

We went to get away from a corrupt church that had fixed up such nonsensical things in the church that we would not stay. We saw that the church had fallen and was corrupted,and so we decided not to stay.

By Mr.Southern,-

296 Q:-Was there any trouble between your husband,Mr.Page, and the church? A:-No sir,on the contrary they disliked him to leave them,and they would have liked to have him went west with them.

297 Q:-Was there not some trouble between him and the church? A:-Well he publicly denounced them for teaching falsehoods.

298 Q :-Do you know whether he was excommunicated by them or not?

~~Counsel for the plaintiff objects to the question~~
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial.

A:-I do not know whether he was or not.

299 Q:-You do not know anything about that? A:-No sir.

Witness fees amounting to $1.50 paid by plaintiff.

By Mr.E.L.Kelley.,-"We wish to introduce in connection with the testimony of Mrs. Eaton,from Exhibit"W." beginning with the third line from the bottom of the page ~~wi~~ with the word "let" on page 90,together with all of pages 91,92,93 and ending on page 94 with the word "accomplished" in the eighth line from the top."

By Mr.Southern,-"That is objected to for the reasons given if the objection to the introduction of the other extracts from the same book."

The following is a true,accurate and correct copy of the extract offered in evidence above from Exhibit "W",beginning on page 90 and following pages,and ending on page 94 to wit,-"Let those who wish to do right and serve God according to the gospel plan of salvation,call their solemn assemblies,and in council determine to stand and build upon the things given in the ~~things~~ beginning of this church,as is contained in the BIBLE,BOOK OF MORMON, AND BOOK OF DOCTRINE AND COVENANTS,WHICH WERE GIVEN FOR THE FOUNDATION AND STANDARD OF FAITH AND DOCTRINE FOR THE CHURCH OF JESUS CHRIST,IN WHICH AII THINGS ARE GIVEN THAT ARE NECESSARY TO BUILD UP THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS,AND REGULATE ALL THE AFFAIRS OF THE SAME. In the book of doctrine and covenants is the order of the priesthood to the church of Jesus Christ,as given thruuhg Joseph Smith,from heaven by the Lord himself,and that too,for the last time. The book of doctrine and covenants sets forth the order of priesthood to the church and poinst out the different offices,and also the character and qualifications of those upob whom the different offices shall be conferred,and likewise defines the duty of all the ~~different officers~~ several officers,and also of the members. It alsb contains the covenants and church articles,and links together the BIBLE AND BOOK OF MORMON which contains the fullness of the everlasting gospel of Jesus Christ (in these last days which was organized on the 6th day of April I830,by Joseph Smith for the foundation and standard of faith and doctrine for the people of God,to build themselves up in the most holy faith,once delivered to the saints. This church organization was founded on the principles of the doctrine as found in these three books of inspiration,and that the things written in those inspired volumes,when rightly observed,are wholly sufficient to govern and regulate all church matters and affairs,both great and small,with perfect accuracy,and that the church mest come to this standard before we can be delivered from the apostacy,and set aright,and become acceptable before the Lord. Now if any one should desire further proof in regard to the things given for a standard and foundation of this church,just turn and read the 28 to 33 pages of this work. There you will find proof positive, showing plainly that the doctrine contained in those three inspired volumes,were given to this church for a code of laws,to govern and regulate all matters and affair in this church whatever,and to be a standard for the church of Jesus Christ of Latter Day Saints. Hence,brethren,I presume we have it plain before us,relating to the subject of the foundation of this church,and I have also shown that the spiritual wife system is a departure from the standard of faith and doctrine upon which this church was first founded and built up in; also that this departure is a heresy,and that those who are engaged in the practice of polygamy are in an awfuh wicked state of apostacy. That the principle authorities of this church are in a state of apostacy will appear plain to the mind of every man and woman who are convinced that the doctrine of polygamy is false and desperately wicked; and it must appear equally plain to the mind of every candid man or woman,that the church can never be re-established,and built up in the gospel purity while it is under the direction and influence of these apostate authorities. In this view of the subject,no doubt,that we all agree. But,says you,seeing this people are led off into abominable whoredoms,under the direction of men of talent and high author-

ity in the church and are still remaining in their

ity in this church,and are still persisting in their wicked practices,-seeing this state of things has unfotrtunately befallen the church,what shall we do,and how shall we behold the church set once more in its primitive order anf if we draw the lines of seperation,how shall we build up without authority? All such like questions have been presented by many,and not belng able to solve such imaginary difficulties,they have suffered themselves to be led astray with the idea that some great man,with great and extraordinary claims of authority,will yet arise and set this church in order,and during this misguided state of mind,and anxious expectations of their hope to sees some great man appear,and thus unguardedly they subject themselves to every imposition that seems to be presented, according to their imaginary views,having lost sight of the true order of things as is pointed out in the book of covenants,which if read and understood,would be a sufficient detector in each and every case that might arise. The spiritual wife system has been proved to be false,and the things constituting the foundation of this church have been plainly illustrated,and ~~KMAX~~ also that many of the authorities of this church are in a state of apostacy and that the necessity of the times calls loudly for a reform in this church. This then,brings me to the subject of authority or priesthood,to show who has the legal right to put forth their hands in renovating and building up the church in the gospel purity,as it was given to her in the beginning for a standard of doctrine and faith,and also the order in which it shall be accomplished."

John T. Crisp,of lawful age,being produced,sworn and examined on the part of the plaintiffs,testified as follows,-

Direct examination by Mr. Traber,-

I Q:-Colonel,how long habe you resided in this state of Missouri? A:-Well sir,I was born in this state about fifty four years ago.

2 Q:-Have you resided here most of the time since? A:-Well I have been out of the state a good deal during that time,-twelve or fifteen years perhaps. There has been about twelve years or fifteen years of my life that I have not been a resident of the state of Missouri,but aside from that my life has been spent in the state. I was born down here in Cass County,the county adjoining Jackson on the south fifty four years ago this month,so the records show.

3 Where do you reside now,Colonel? A:-Here in Independence.

4 Q:-How long is it since you took up your residence here permanently? A:-Well since the last real genuine war we had here. In '65 I may say I began to live here in this county,-in '66 I may say I came to this town to live.

5 Q:-Did you take part in the war? A:-I have,-well yes sir,I did.

6 Q:-Well with the exception of the time that you were in the army where did you live outside of the state of Missouri? A:-Well,I lived in San Francisco,California,-I lived there a while,and then I had a kind of a precarious portable existence during the four years of the war. I lived in Arkansas and Texas and Louisana,-did you by your question mean out of the state?

7 Q:-No sir,not out of the state? A:-Well I was in the University a while in my youth,and at St. Louis.

8 Q:-Well what information,if any,have you,Colonel,regarding the feeling against the Mormon people,or the Latter Day Saints in this part of the country,during the time of your knowledge of it? If you have any knowledge in reference to the feeling that exists in reference to their returning to this part of the country?

A:-Well I do not exactly get the drift of that question. It seems to me that you have four or five questions involved in one,and that too in such a manner that I don't believe I will be able to extricate them and put them in order.

9 Q:-Well in the first place I want to know,-well I will repeat the question. What information,if any,have you regarding the feeling against the Mormon people, or the Latter Day Saints,in this part of the country during the time of your knowledge of it,-if any,with reference to their returning to this part of the country? A:-Well you will understand very well that this country has divided up in the last thirty or forty years in very emphatic periods. It was a period of rapid and emphatic development,and the periods of their entree into this part of the country was one of the most pronounced in its culmination. of course the disturbances here occurred before my time,and sti I recollect hearing a great deal about it in my childhood,but as a matter of course all that I know about that is merely what I have been told,and what I heard,and not something that I know of my own personal knowledge. It is what I heard and saw in the papers probably,and it would be difficult for me to decide the precise means or method by which I obtained what I do know. I have talked with a great many elderly people who lived here,and did live here at that time,but as I came on the scene in '36 it follows that it was all before my day that the scene of activity was at its atage of greatest development. I remember that when I first heard of it,it was then talked adout as an event of the past. Now if you are not very particular about the way I frame my answers I would like to answer that question,as I understand it,in my own way.

IO Q:-Well proceed and do so? A:-Well I was a little boy at the time I first heard of this,-quite young in years and very small when I first heard this Mormon question discussed. This man Governor Boggs and my people were related,-that is,his son married a cousin of mine,and the families,-the old Hicklin family and my family were very intimately connected. That family furnished the first governor of Missouri,and in-asmuch as he was connected with the family at that time it was more discussed in my family circle than it would otherwise have been. I remember that I talked with Governor Boggs about it in California in the Napa Valley when he was quite an old man. It was at his son's house,the one who married a cousin of mine a Miss Hicklin. Now I heard I suppose what everybody in this country at that time heard about the troubles with the Mormons in this section of country,and there can be no doubt that there was a great,-a very great and strong prejudice almost universally throughout this country against the Mormons,as they were called, but it gradually died away until the time of the war ,and of course during that time I was so busily engaged I heard nothing about it during the war,and had lost all interest in it perhaps,-if I ever had any,-and I don't think I ever had any particular interest in it.

By Mr.Southern,-

II Q:-You were thinking about other things during the war? A:-Yes sir,I was kept quite busy getting out of the way during the war,-and the other matters absorbed all my attention,-I was getting away from my own monuments,and after the war I remember very distinctly as every other gentheman does,when in this little town it was said that the Mormons were coming back to occupy their land again that there was a good

deal of excitement over the report and a good deal of talk about it going on,and some people expressed themselves pretty freely as being opposed to it. Now I do not remember whom I heard make these statements or that I heard much of the conversation that went on over it,for I was not much of a resident here at that time, I lived here and my children were born here,but I was in St. Louis most of the time,and here in Jackson County where I had some real estate,-I was attending to a good many things,but I remember that I heard it said here that they were returning. I heard a good many things said about that,but I don't recollect particularly what they were. Now that is what I heard,but I suppose I did not hear any more nor any less than any body else heard at the same tim

By Mr.Traber,-

I2 Q:-Well,can you state further what that sentiment was you speak of,-what the sentiment of the people generally is in this vicinity was with reference to that sentiment? A:-With reference to what?

I3 Q:-With reference to that sentiment? A:-Since the war, since their return?

I4 Q:-Yes sir. A:-Well I suppose I have heard almost everything. I don't believe I would be able to state what I have heard a good many people say about it for I have heard so much. They said for one thing that I remember that they were a very persistent people and evidently believed in their doctrines. That was the belief of some people as it found expression,and there were people who said they were glad they had come,and they hoped they would not effect the price of real estate,and others,-amongst whom I was one,-expressed the desire that they would all come and get here quick,for we considered that whatever their character might be it was impossible to damage society in this locality any,and that was my opinion at the time,for this was a pretty bad society here right after the war,and we considered that about any class of people that would come in,whatever their prior reputation or character might have been, would have been an improvement on the state of society then existing. We practically had no interest in the community then,as about all my people,including myself,were right after the war disfranchised.

By Mr.Southern,-

I5 Q:-To use a common expression we "were not in it." A:-No sir we weren't in it to any alarming extent,-they thought we were not of good enough character-and our past records were such as to make us dangerous members of society,-as if anything could have damaged the character of the people generally that lived afound here at that time. Of course my remarks are not intended to be taken down,you know,-I am just making this statement on the side. We were not in it and were not very particular who came here. Now that is the fact,-we did not care very much whether the Mormons came here and took charge of it or not. Now I would like for one thing to be distinctly understood and it can go on the record too if desirable,-that I did not think that any class of citizens that came here,whatever their reputation might be,that I ever heard of,could have damaged the society that existed here right after the war,and that was about the time that I believe that I first heard rumors that the Mormons were returning here. Now I do not say that every man that was here was of that character,but I do say that a very great many of the men that were here at that time were of that shameless

at that time,men whom I respect and honor,but on the other hand there was a great many,the worst you could say about them would be too good.

By Mr.Traber.

I6 Q:-Well suppose Colonel that just before,or just immediately after the close of the war,these people who are now called the Latter Day Saints,had returned here in any considerable number,and had undertaken to stay here as they did at an early date,and claimed their lands,what would have been the result? A:-Well now I do not mean to answer any such a question as that in its entirety. You ask me if they had undertaken to have returned here,and have claimed their lands as they did at an early date. Now that is a question that I cannot answer in its entirety,for the reason that I was not here when they first came to this county,or at the time they were expelled. All that I know about that is what I derive from conversations with people who lived here at the time and ~~fe~~ from history generally. From my means of information though,I gather that their first settlement is this section produced an intense feeling of hostility torwards these people called Mormons,or Latter Day Saints,and when they returned here the second time we had just passed through a war at that time,and there was no disposition on the part of the communiti generally to kill anybody,-they had seen enough of it in the few years that preceded this epoch. There was no disposition to kill any body at that time,I said,-I should have said there was no disposition to kill them publicly,but all over this country men were killed privately,and the whole country you might say were arranged in sides,-each party taking sides as in the olden days in the time of the border feuds and men were killed every day all over this country. There were people killed down here at Lexington,and the general moral tone of society was at a very low ebb and things were in a very bad condition here for a few years after the war,and the people had so much of these matters that ~~so~~ more directly interested them to look after,that they did not pay much attention to the return of these people. Were you here after the war,-if you were you must have known something about how matters were here for the three or four years after the war?

I7 Q:-I came here in '65? A:-Well you must know something about it. There was supposed to be a good deal of bad feeling here at that time in regard to a good many things. Now you have asked me two questions as to the reletive danger that these people would have undergone in this country if they had attempted to return before the war,as compared with the danger if they returned after the war. I don't see how you would do that. Before the war was the time that I heard what had been done here in the thirties sometime,and I know that up to the time of the war my understanding was that there was a very deep-seated and almost universal feeling of hostility against these people,which afterwards was in a degree swallowed up in the war. Now as I have stated,after the war I think the people were in a condition,-especially that portion of them to which I belonged,-the southern people were in a condition to not have much to do with resistance and rebellion. We might have a great many opinions on one thing and another but we were very chary about expressing them,and when I did undertake to express any thing I took care not to express my real convictions in regard to any thing,for I became quite an adept in regard to that.

18 Q:-Do you remember,Colonel,when they began to return in later years here? A:-Yes sir,I think I do.
19 Q:-When? A:-In any numders?
20 Q:-Yes sir,when they began to return in numbers that excited comment? A:-Well that must have been about fifteen years ago,or so,
21 Q:-What was the feeling at that time if you know? A:-Well it depended entirely on whom you met,and whom you conversed with. That depended very largely on circumstances and whom you were talking with. As a matter of fact,the religious question or side of the case was not discussed very much at that time. Religion was something that did not interest the body of the peoplein that day any more than it does at the present time,-and then as now,political questions were the absorbing topics of conversation. Political questions monopolized the day,and people were only too glad to find a man with any kind of a religion who believed in it and who lived up to it,and it is a fact that a great many people who professed religion at that time left the country for that reason,-they would not live here,and so they left and went to a ~~se~~ section where people could live in peace,-they would get away to take care of it. I heard a great deal that it would be improper perhaps,and certainly uninteresting for me to relate. Now I do not wish to be understood as saying or intimating that religion was looked down upon,for such is not the fact. All religions were popular enough here at that time,but in connection with the return of the Mormons I heard a great deal,for some people would say that they were really a branch of the Mormon church in Utah,polygamists,and that they were in fact practising polygamy. I have heard that stated,but if you were to ask me by whom that statement was made I could not tell you, but nevertheless I have heard it stated that they were practising polygamy just as much as they did in Utah,and others said they were a pious,sincere,christian people,very industrious and moral in every respect,law abiding and prided themselves upon paying their debts,and were as good citizens as anybody. Now that was the conflict of opinion as to the matter, and I suppose if you would approach and ask one hundred different men about these people you would get one hundred different opilions about them,varying between these two extremes that I have given.
22 Q:-Have you ever heard since the war,anything said by any private parties about resisting their coming here again? ~~A:-Thexxxx

about what I say. I have heard so much from my earliest days down to the past few years,-right down I might say to the present time,that it is difficult to say what I have heard except in a general way,and it would be impossible for me to specify the date and person from whom I heard these things,particularly as I never expected to be called upon to give any evidence in the matter.

By Mr.Southern,-"We object to this line of inquiry as it is not relevant to the issues in this case."

A:-Now of course when they first came here the second time,all of their supposed to be characteristics were more emphatically discussed,and the causes which led to their expulsion in the first place,than at any time afterwards;and after they had lived here a while and people began to mix with them,they began to grow more in favor with many of the residents here,and they began to think they were not quite as bad and black as they had been represented. I have heard men say they were just like other human beings,with many virtues,weaknesses and faults,-to say nothing of vices,-they had their objections to them,but they said that you would sometimes find some very good ones,as well as some bad ones. I have heard men express surprise here that they should take any interest in political matters and be democrats and republicans,and I have heard other men say that they went in a body and voted by themselves as a unit. I have heard everything I suppose that could be urged for or against a people. I would state further,however,that I do not know the object of this inquiry,and I would also state in my own defence as a witness giving testimony I would state that whatever the prejudice against the Mormons may have been here,I do not now understand that it is as great as it has been,and I know of a ~~gr~~ great many little instances that would indicate it,-for instance,I heard once of the southern Methodist minister going down there and he heard some of their preachers preach,and he expressed surprise and pleasure at the doctrines he had heard taught,-he said it was a surprise to him. I went with him and listened very attentivyly to it,as did he,and I asked him afterwards what he thought of it,and he said they preached a good sound doctrine. That was when Mr. Palmer was here three or four years ago. I do not remember what time it was,but I remember that particular instance.

By Mr.Ttaber,-

29 Q:-Did you at any time have any discussion with the citizens here,or with any of them,with reference to their coming back here,and if they came back here, they would be converted by the ministers that are here? A:-Well,I suppose I know what that refers to. I was talking on one occasion with some people who said they thought the country was going to be deluged with them,as some counties had been by locusts and other devouring insects,and I suggested since my attention has been called to that little incident,-well I have some delicacy in repeating that,-I told them that our town was well provided here,-not only with churches but with representative ministers,and if they came in we would have them surrounded by the different organizations here,and before they knew anything about it we would have them all converted. That is what I said when somebody expressed the opinion that they were coming back to repeat at this time what they had undertaken before,-according to history and rumor,-take possession of the country and monopolize it for the

about what I say. I have heard so much from my earliest days down to the past few years,-right down I might say to the present time,that it is difficult to say what I have heard except in a general way,and it would be impossible for me to specify the date and person from whom I heard these things,particularly as I never expected to be called upon to give any evidence in the matter.

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monopolize it for themselves. I thought the idea was ridiculous,and when it was suggested I thought I would answer it as I did. It was a ridiculous idea and I thought was deserving of a ridiculous answer.

~~XXXX~~- Cross examination by Mr.Southern,-

30 Q:-Then is it not a fact,Colonel,that you have considered from the very first after the war,-from that ~~ti~~ time,-that in the beliefs or opinions that you have heard expressed by these people that have talked upon the subject,as ridiculous? A:-Well,Colonel Southern,you have heard and I have heard,and you know as well as I do,-we both know very well,that there was a great deal of bad blood in this community after the war,and you know that was a period of profound dissimilation,if I may so express myself,-and you could not always place much reliance upon what a man's belief or opinion was from what he said. It was a time when it was the opinion of almost every man who had a grain of prudence in his composition that it would possibly be better for him if he kept his real sentiments concealed and did not express them. I felt that way I know,and probably you did also,for we both had the same reason to do so. Now the fact is that I thought I discovered with some people,-well I unquestionably owe it to myself and a proper respect for the oath I have taken to tell the whole truth,to say that I discovered a great many people in proportion to the number in the community who entertained opinions and animosity and prejudices against these people,which under ciscumstances dissimilar from those which followed the war,would have rendered it impossible for these people to have come into this community and have lived in peace and safety. Now that is my candid opinion,and these facts must be as well known to you as to myself. I did not participate in any such feeling as that,and there was a great many people here who did not,but still there was a very large element in society here,who if it had not been for the experiences they had just passed through in the war,would not have permitted these people to return here. I do not say either that the majority of the people entertained any such sentiment but I do say that it is my belief that the class that are allowed to,and do generally dominate society,and dog it into doing things which in its sober and thoughtful moments it would not do,I cannot say. We all know how these movements progress,-they are generally in the heads of a minority of the more restless and turbulent element of society,and they very often dog society into doing these things whether it is because ~~it is~~ ~~XXX because~~ of the popularity of the movement or not I cannot say,but in this case I found a great deal of prejudice against them in some quarters.

31 Q:-Have you at any time since the war seen anything in the actions or conduct of Jackson County,including Kansas City that would authorize an apprehension of violence as against the Mormons? A:-No sir,I have not. All that I know in that direction has been in the form of expression and not in overt acts,for I have seen nothing.

32 Q:-Now Colonel I want to enquire on that line particularly about another period? Not the war period,because that is understood to be within our line of inquiry? You were born you say in 1838? A:-Yes sir.

33 Q:-And at that time,as you know by history,there was no Mormons here? A:-No sir.

34 Q:-The Mormon movement had been in '31,'32 and '33? A:-Yes sir.

35 Q:-And they were not here in '38? A:-No sir.
36 Q:-They had been here and were gone at that time?
A:-Yes sir,it was before that they were here. I came here about that time,and I know their sojourn in this county at that time was talked of as a reminiscense of the past,-that is,as soon as I began to know and observe things I found that out.
37 Q:-Then about I850 you were about twelve years old,and had begun to observe matters,-public movements,etc, and along about that period I believe you testified that you began to hear Mormon matters discussed in your family with reference to the Mormons,-is that a fact or is it not a fact? A:-Well that is the fact,and that is what I tried to state in my statement,for the fact is I heard a great deal said about the Mormons and their position. I do not recollect my age, but I was quite young when I heard these matters discussed first. I remember things very distinctly that occurred when I was five years old,but I don't think, I am surprised at my age,that is,how young I was when I look back and remember that I heard some things, for I must have been very young at the time. I remember,for instance,the emigration to Oregon and California in '46 when I was eight years old,and I remember when one of my brothers was born and named after James K. Polk,when I was only six years old.
38 Q:-You remember the California gold excitement,do you not? A:-Well Yes sie,the California gold excitement was in '48 and '49 and I remember that. I remember events that occurred before that quite distinctly also.
39 Q:-Now ~~xx~~ are you ~~xxxxxxxxxxxxxxxx~~ able to state the condition of the public mind here in the period between I840 and I850 in such a way that your opinion would amount to anything to yourself,as to whether the public mind was in such a hostile condition that the Mormons could not have come in here as quiet citizens,and lived here? A:-No sir,I do not think they could. I want my statements here to be accurate and something that can go down in history as being a correct statement,for I am under oath,gentlemen,and I ~~wa~~ want to keep as near the line as I can. I remember that the public mind was considerably wrought up over these matters,for the United States Government was having a good deal of supposed or real trouble, for that was the period that they sent out a very large expedition to Utah under Albert Sidney Johnson.
40 Q:-Yes sir,but that is not in the period I speak of?
A:-I understand,but that condition was in my mind, and the excitement over it was of a kind of intermittent character that came and went,so to speak;and it~~x~~ was supposed also that the ~~that the~~ condition that existed in Utah was supposed to exist here also at Independence at the time they were here and was the primary or direct cause of their expulsion from this locality. I know that was the opinion that was universally held in this community. I have heard one or two persons say,-and I recollect one man in particular,-yes I remember of another man who had the courage to say that these were an outraged people,and that they were a respectable,moral people that belonged to this church at the time they were here first. They said that they were a very pious,industrious people,but if you were to ask me the question if I thought it would be safe for them to have returned here at any time between their expulsion,-
4I Q:-Now recollect the question is between '40 and '50?
A:-No I must say that I do not think it would have been safe for them to have been here,or to have come

back here between I840 and fifty,or between I850 and sixty either. I do not think it would have been safe for them to have returned duriing th that period.Now that is my candid opiiion.

42 Q:-Now is not this practice or peculiarity that you refer to the practice of polygamy? A:-Yes sir,that is what I heard they were practicing in Utah,and that is what they said was practiced here at the time they were here,and was the direct or indirect cause of their expulsion.

43 Q:-Your reference is to Mormon polygamysts is it not when you say they could not with safety have returned here during the period of which you spoke? A:-Yes sir,but all Mormons were supposed to be polygamists then if I recollect it right. I never heard of this thing of anti-polygamy until I came here after the war.

44 Q:-And is not that charge you speak of really the foundation of the hostility you speak of that was exhibited against them? A:-No sir,I don't know that I could really say that.

45 Q:-Well now since you speak of the hostility I would be glad for you to give your information with reference to the cause of the hostility? A:-Why,my understanding is that it is the name,-that it was the name,and the hostility as you express it was exhibited against all who bore the name of "Mormon" as they were called,without any particular reference to minor details as to the cause. It seemed to be simply a deep seated and very general hostility founded on deep seated principles,and what the causes were in detail I could not state,neither could I say or repeat a word that I heard-for my recollection is a recollection of general details and not a recollection of specific details. This was a very sparsely settled country at that time,and there was not very many people living here at the time in comparison with the number that there is now. There was no Kansas City at that time,and the Govermeht had a fort down here on the Osage,and they sold the land around here at a quarter and twelve and a half cents an acre. We had no Kansas City at the time,and I can remember when I rode up from Lone Jack,where my father lived and not pass more than three or four houses on my road. Now I have stated very fully and completely what I know about this matter,and I remember very distinctly that there was an almost universal dislike for these people called Latter Day Saints,or Mormons,-there was a very universal dislike against them,from every cause imaginable.,-they were a very unpopular people. They were believed to be teaching a strange doctrine,a doctrine that was pernicious and had a tendency to uproot the other churches,and they were heretics and not a desirable people to have settled in any civilized community,-so much so that it was believed the people were justified in expelling them,-so much so that it was believed that the action of the Jackson County people was justifiable in driving them out.

46 Q:-Between fifty and sixty was the time that you remember more particularly? A:-Yes sir,I had grown up then,and of course I remember more particularly what occurred and what I heard between '50 and '60 than I do what occurred before that time. We had a college down in the southern part of this county at that time,and I attended it,and I saw and talked with a great many people,-a great many men who had participated in the Mormon wars,and we talked with them,and I had better opportunities for forming an opinion than now.

47 Q:-I believe you stated you were in California at one time? A:-Yes sir.

48 Q:-When were you in California? A:-I was there from '56 to nearly '60. I was there when Johnson's expedition went to Uwah.

49 Q:-Then you were not here between '50 and '60? A:-Yes sir,I was until '56. Of course I was not here at the time,-all the time,for I went to school at Chapel Hill for a while,and then to the university of Missouri,but up to '56 I was here most of the time,-I was in the state,and then I went to California.

50 Q:-You were only familiar with any sentiment that might be here around Independence and Kansas City,which was only a small place then,-you were familiar only by reason of your immediate surroundings,and family connections in another county? A:-what is that?

51 Q:-I say your knowledge of the feeling that existed in this vicinity,-that is the vicinity of Independence, was gained only from your contact with the people during that period during occasional visits to this section,and from contact with your family and neighbors in another county? A:-Well sir,incidents and events were discussed when I was a little boy. I remember that and I remember that at that time the settlement was unfavorable,-indeed intensely hostile to the Mormons as they were called,and of course there was a decade when it died out,-that is,this intense feeling of hostility against them died out so to speak,or become modified in a great measure,-it passed away and became ancient history,and a man would not pay any attention to it unless he had some reason to be specially interested in it. I remember more about these people for the reason that as my father was one of the largest dealers in live stock in this country,and they used to come through here purchasing live stock,and they bought a good deal from my father. After the California emigration movement had begun,and they were on wheir way west,they would come to my father's and buy cows,cattle and horses,and take them on to Utah with them,and of course in that way I met a great many of their distinguished people,and I remember that they were a very intelligent people,for I remember talking with them at my father's house.

52 Q:-Well,locate that time? A:-Well that was between fifty and fifty six. I remember this very well,for my father liked to deal with them. He liked to trade with them and I remember that they had plenty of money,and when they wanted anything they bought it and paid for it. I remember once that my father had about a hundred cows and calves,and my father bought a,-I should say they bought from my father a large majority of them, and they left the calves and a little boy tried to raise them,and so do as old Gabriel did. We tried to raise those calves,and would try to raise four or five calves to a single cow,-and I remember it also because sometimes when a cow would be away four or five days she would return to her calf. I remember of my mother and I talking this thing over the other night.

53 Q:-Their road led along by your house and out along by Westport? A:-Well the main road through this country was down about Warrensburg,and down through the country about where Sedalia is now. That was the dirt road and was called the Shawnee road,-the direct road,or Mormon trail. Russell's place,-they had a ~~pla~~ place down there they called that,down about Lone Jack they had a place,a kind of head-quarters. I hadn't thought of that until I began thinking about this matter the other night since this testimony was begun.

54 Q:-Well that is all right. I am calling your attention to these matters as we go along? A:-Well I remember it now.

55 Q:-Of course wanting live stock they would find your father? A:-Yes sir,they would find him. He was the largest stock dealer in this country at that time,and they knew it.

56 Q:-Would they purchase cattle in large numbers from him at a time? A:-Yes sir,five hundred or six hundred head at a time,and maybe more,and they would pay for them too,-for they had plenty of money.

57 Q:-They would get the cattle and take them west with them? A:Yes sir,in buying cattle I think they would just pick up what they could along the road,for I don't think they would go more than a mile or two ~~xx~~ from the road to get them,-they would just pick up what they could along the line of travel conveniently and as my father's place was close to the road they called on him frequently,and they were people that he liked to deal with too. They just wanted cows more than they did beef cattle,for they seemed to be a pastoral people,and wanted cattle for the purpose of establishing farms in Utah.

58 Q:-When was that? A:-I remember that was between fifty and fifty-six.I remember this well and I remember also that after I had opportunities of getting to ~~ta~~ talk with them for four or five years that my opinion of them was different from what it had before been from the accounts that I had heard discussed relating to them,and I came to the conclusion that they were a wronged and maligned people,and all they wanted was to be left in peace and quiet. I remember that there was a man that I heard a great deal of when I was a boy,and his character was described as not being of the best,and I found this man and afterwards became personally acquainted with him,and found out that he was quite a different man from the man that had been described to me. In fact I found out that these "polygamists" as they were called were a very fine,intelligent,bright people,-I found out that they were a bright and smart people of a few words,and of a great deal of action.I remember also that in talking with them,-and in their conversations and dealings with my father they were very polite,-in fact all the men he dealt with were a very polite and intelligent people,and I remember hearing my father say there was a great deal of sin committed in this world on account of prejudice. I remember also when the news came of the Mountain Meadow massacre there was great excitement over it,and somebody had to be killed,and Buchanan's Administration got into trouble and people were down on it because he did not send an expedition out there to Utah and kill them all. That was just the way it was,-we would have one wave of friendship,and then another would follow it and swallow that feeling in one of indignation. I ought to have stated in advance of this ~~th~~ that I never heard any of these statements from Mormons as to what their intentions were in regard to this country,but I have heard other people state and indeed it seemed to be the general impression and belief that the Mormons intended to come back to this country,and take it. They had established their church and head-quarters temporarily in Utah it was said and from that point they sent out their missionaries and made their converts and recruits,and sent them to Utah and other places,and in time they were to return here and possess this country,it did not make any difference as to what it cost to take it,-they were to have it.

59 Q:-Were you,-did you hear from where they were to come?
A:-They were to come from all and every direction.
60 Q:-Were you acquainted with the places east from whence they were to come? A:-They were to come from all and every direction as I have stated,-I do not know that I heard any special place,but they were to come from"all over." That was the general belief that they had their head-qusrters in Utah,and were recruiting armies to come back and take this country again. I never have tried in my life to locate a Mormon,-not even those here in town,-that is with reference to where they came from. I supposed they came spontaneously from over the earth,and from different places,-I have heard that gentleman (E.L.Kelley) say that he came from Iowa,and that was the first one I know anything about where he came from,-yes,I have also heard Mr.Smith,one of their ministers say that he came from Iowa.
6I Q:-Then so far as you know anything about it they sprang up from the earth? A:-Yes sir. Well,no sir, not that either,for I do not mean that in a literal sense. My understanding is that their missionaries are everywhere,and in a like manner they came from everywhere. Now that is what I meant,and that is the way I meant to be understood,for I do not want the gentlemen to think I fancied they sprang up spontaneously from the earth,without an adequate primary cause.
62 Q:-Is there anything more you desire to say about this matter? A:-Nothing further,-only that when I was in Utah I talked with a great many men,and I never asked anybody where they came from,but some of them told me voluntarily,and they said they were from England and other foreign countries,and everywhere. I saw one from Spain,and a great many of them told me they were from the southern states,Georgia,Alabama and the Carolinas. I believe I did ask them that question,for I wanted to know if there was any from the south,and whether I was of kin to them or not.
63 Q:-Now you say,if I understand you correctly,that the sentiment of the people,-the ideal of the people in regard to the Mormons at the time you designate prior to the war,was not the ideal of the people whom you see here now about Independence,and what you have seen since the war about Independence?
Counsel for rhe plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetena.irrelevant and immaterial,and not proper cross examination.
A:-I do not understand your question.
64 Q:-I say if you were locating a Mormon and describing him now,would you describe him according to the ideal you had of what a Mormon was prior to the war,or what you understand him to be now about Independence,-did your conceptions take in the sort of men or people prior to the war,as these people are since the war?
A:-Well before the war I did not know much about any people. My conceptions were of Missourians before I went to California,-I never had any idea of people before I went to California,except Missourians and other Southern people. Yankees were not allowed to come into this country before the war,-immediately before the war,by anyone who knew anything about it, nor these people either,-hence allYthese people that were here and were northern people,and supposed to be abolitionists they didn't come into this country. There was not many people from the north here prior to the war,and if by any chance there was any here they kept that matter a secret,and did not tell many

people about it. They kept it a profound secret,for northern people at that time were not in much better favor than the Mormons were.

65 Q:-You do not undertake to say that any body was disturbed or would be disturbed here,simply because he was from the northern states? A:-Yes sir,I undertake to say that prior to the war the prejudice against the northern people was extreme. Of course I do not understand that this is going in as testimony. The first thing a northern man did on coming to this country was to buy himself some negroes to identify himself with the country and its people. You remember Nelson,-the father of this man Nelson,-he came from Illinois,and I remember hearing it said that he was an abolitionist in disguise,and he bought some negroes to combat or disprove this suspicion. I don't think that any northern man could live peacably in this community before that time without he identified himself with the people in their habits,and especially is this true on the slavery question.. There was a man named Wshburne in this town,-a lawyer here from Indiana,-his brother came here and stopped at my father's house below Lone Jack,and these three men,-Nelson and the Washburnes were the only three northern man in the country at that time. I remember Washburne had to leave here,but he left because he did not feel comfortable here.

66 Q:-Is it not a fact that there are a number of northern men here now who were here before the war? A:-I do nor know of any,but there may be. I never remember of seeing a northern man here,that was called a northern man but Washburne. There may have been but I think if so they were careful to keep their identity as northern men concealed. I remember that his brother lived here,and he married into a very prominent southern family,and was supposed to be very sound upon the question before the war,but when the war came up he went to Kansas and joined the army,and the other also joined it in Indiana. I know that when a steamboat was passing up the river they were required to land and they were boarded,and guns were taken off them and bibles,-and Yankees,-they were not allowed to go up the river at all.

67 Q:-You dOd not find any Mormons? A:-No sir,for they were all supposed to have gone west before that. My understanding was derived from what I read and heard from people who were present at the time and knew all about it,or professed to know all about it,is that they were driven off and some of them were killed,-at any rate they left.

Martha A. Hall,~~XXX~~ of lawful age,being produced,sworn and examined on the part of the plaintiff,testified as follows

Direct examination by Mr.Kelley,-

I Q:-Please state to the reporter your name? A:-My name is Martha A. Hall.

2 Q:-Where do you reside? A:-I live three miles and a half out of here,-south east of town.

3 Q:-How long have you lived there? A:-I have been living there at offs and ons some sixty one years,but I haven't made it my permanent home all the time.

4 Q:-What part of the time have you not been living there A:-From '66 til '90.

5 Q:-From '66 to '90? A:-Yes sir.
6 Q:-That is the period of time that you did not live there? A:-Yes sir?
7 Q:-Where did you live during that time?? A:-I was living out here about a mile from town part of the time and part of the time a little further on south from the place where I now live.
8 Q:-Have you lived in this country all your life? A:-Yes sir.
9 Q:-You have lived in this country all your life then? A:-Yes sir,in the vicinity of Independence here ever since I was born,and I was born right here.
I0 Q:-You are sixty one years of age? A:-I was born in I I829 and you can calculate my age from that,-I am sixty one years old past I think.
II Q:-Did your parents live here at the time of the expulsion of the Saints in I833? A:-Yes sir.
I2 Q:-And you were here at that time with them? A:-Yes sir
I3 Q:-Do you remember anything about that event? A:-I have a kind of a recollection. I have a very vague recollection about their taking a very active part in expelling them,-that is,expelling the saints from Jackson County.
I4 Q:-Who took or performed that active part in the expulsion of the saints? A:-My people.
I5 Q:-Well,who were they? A:-My relatives,-my father and brother.
I6 Q:-Well state to the reporter what you know about it? A:-Well I don't know anything that would be worth telling hardly,-I don't know very much about it that would be worth telling perhaps,-any further than I know that my relatives,-I know my parents and relatives took a very active part in the expelling of the saints.from Independence,and at that time there was no thought that they would ever return again.
I7 Q:-You remember of your own recollection of the event of the expulsion of the saints from this county? A:-Yes sir.
I8 Q:-You heard them speak of this? A:-Yes sir.
I9 Q:-And you heard them speak of it for how many years afterwards? A:-My parents?
20 Q:-Yes? A:-Just as long as they lived I would hear them occasionally speak of it.
2I Q:-And how long did they live? A:-Well my mother has been dead about three years,and my father about sixteen years. They have been dead that long,-my mother three years,and my father sixteen years,and his brothers died at intervals along from that time to this and all the neighbors that I knew who took part in it have about died since then,-that is,all who acted in the same spirit.
22 Q:-What would they say when they referred to it? A:-Well I remember that they would call them liars and thieves and cut-throats,and about everything they could think of that was bad. They would speak of them that way and call them all the bad names they could think of.
23 Q:-What did they say,or what ~~did~~ would they say with reference to their coming back here at any time? A:-They said that if they did come back they ought to be every one of them killed,-that the citizens ought to raise up and mob them out of the country.
24 Q:-Was this the general talk of the community? A:-That was the general talk so far as I know. That was about the way they would speak of them,and I never heard any one speak friendly to them until about the time that I commenced to investigate their

doctrine,and then I heard some good things,-or rather I found it out for myself.

25 Q:-About what time was that? A:-That was about twelve years ago.

26 Q:-How did it come that you investigated the doctrine of the church? A:-My attention was first attracted to it at the time that this brother came out there in our neighborhood,where I was at that time,-he came out there to preach,for he understood there was an opening there where he could do good,and we met there several times to hear him preach. He preached in the school house,but finally they locked the school house and said they were not going to allow him the privilegeYof preaching in the school house at all.

27 Q:-Up to this time the neighbourhood had been against them? A:-Yes sir.

28 Q:-And your own relatives amongst the number? A:-Yes sir. In all the talk I heard there,and the people that I have heard talk,and I have heard almost every body that lived there at that time talk about it,and I never heard anybody express a friendly word for "the Mormons" as they called them.

29 Q:-Did you see them at the time they were driven out from here,or were you too young? A:-No sir,I can't remember about that for I was too young. At that time I was only three years old,and I can't remember even how my father and brothers looked as they started out to help the mob tear down the printing office and drive them from the town. I remember that they were in the persecuting party but that is about all I do remember.

30 Q:-Well do you remember any of the occurences relative to the year 1838? A:-Yes sir,I remember about that. I remember a good deal about that, but that was not here.

31 Q:-Well what do you recollect about that? A:-I remember that there was a lot of men went under the command of Captain Sanders to Caldwell County to expel the Latter Day saints from there. I remember that they said they would have to follow them up and kill the last one of them.

32 Q:-That was in Caldwell County? A:-Yes sir.

33 Q:-Well was there a company went from here to help expel the saints from Caldwell County? A:-Yes sir.

34 Q:-Do you remember any one that went with them? A:-Yes sir, and there is only two men that I know of now that are living who went with them at that time,and one of them is Alexander Harris and the other is Samuel Luttrell.

35 Q:-Were any of your relatives with them? A:-Yes sir.

36 Q:-Who of your relatives were among them? A:-My father and one of his brothers in law,and one of his cousins by the name of Pitcher. At this time this man Pitcher lived out here on the Rock Creek road.

37 Q:-Well when they returned did they state that they had driven themYout? A:-Well I have heard my father state a good deal about what happened then,but I was only about nine years old,and I do not remember very well what he did state about it,-but I remember very well that they were to be driven away,and not be allowed to come back again. That was the common conversation in the country and there was a few of the Latter Day Saints that wanted to stay for a while and wind up their business,but they would not permit it,-they just drove them right out and would not let them stay at all. That is what they said when they came back,-they drove them right out.

Cross examination by Mr.Southern.

38 Q:-To what church do you belong? A:-Do I belong now?
39 Q:-Yes ma'am? A:-I belong to the Latter Day Saints church at the present time.
40 Q:-When did you become a member? A:-I became a member of that church nine years ago some time-along about thr first of September.
41 Q:-You and your husband both became members of it? A:-No sir,not at that time. My husband has been a member of it for about four years. I think it is about four years since he beaame a member of the church.
42 Q:-He has been a member for about four years? A:-Yes sir,he has been,-I think it was about four years ago that he joine dhte church.
43 Q:-Well as you have stated that you heard a good deal with reference to the persecution of the church,-the "Mormons" or "Latter Day Saints" as you call them,-I would be glad for you to mentoin the names of the parties you have heard speak of it,or who took part in that? A:-I have mentioned them.
44 Q:-Well you mentioned your father and your brothers? A:-Yes sir,probably you were acquainted with them,-John Braden,-most every body knew them.
45 Q:-Yes I knew some of them. Well now go on and state somebody else you heard speak that way? A:-Well I have heard a great many speak of the Mormons that way,-that is,say all the mean,bad things they could about them,but I don't know that I can remember who all there was I heard talk that way.
46 Q:-Well if you can remember some of them-please do so, and give their names as best you can? A:-Well there was old Samuel Harris and old Alexander Harris.
47 Q:-You have heard them? A:-Yes sir.
48 Q:-How long ago is it that you heard them speak that way? A:-I could not begin to tell you.
49 Q:-Was it a long time ago? A:-Yes sir,a good many years ago.
50 Q:-Was it before you were married? A:-Yes sir.
51 Q:-How long have you been married? A:-About twenty-six years.
52 Q:-Well who else did you hear speak of them? A:-The Pitchers and Parishes.
53 Q:-Well who else? A:-Perry Braden and Led Braden.
54 Q:-And who else,if you can remember? A:-An old gentleman by the name of Johnny Smith,and Evan Hall.
55 Q:-Who else? A:-Well,I can't remember any more,but I have heard a good many more no doubt,but I can't remember them now. I was raised there pretty close to home,and I would not have the opportunities of hearing talk like a hreat many men do.
56 Q:-Well,now mention some others that you heard speak of them in that way,if you can? A:-Well I will see if I can remember any more.
57 Q:-Can you recollect any others? A:-I don't believe I can.
58 Q:-Well what did you over hear Evan Hall say about them? A:-Not a great deal of anything,but the run of his conversation was,-well from the run of his conversation you could tell that he was bitterly opposed to the Latter Day Saints.
59 Q:-Well,state anything he said,if you can? A:-Well I heard him call them "damned Mormons".
60 Q:-Well state anything you heard any one of the Bradons say? A:-Well I can't remember all that they said only I remember that they said that every one of them ought to be killed.

61 Q:-That was what the Bradens said? A :,Yes sir.
62 Q:-Which on e of them said ~~it~~ that? A:-They both did.
63 Q:-Which was the worst of the Bradens? A:-Perry seemed to be the most indignant.
64 Q:-Now when did this occur? A:-That was when I was a child.
65 Q:-And you remember it to this day? A:-Yes sir. It came to be when I was about grown that therewas very little said on the subject one way or the other for some time,until the saints commenced collecting back here again.
66 Q:-When did they commence collecting back here again? A:-I don't know for I never got acquainted with the doctrines of the church,or heard much said about it until twelve years ago.
67 Q:-So then from the time that you were grown up to ten or twelve years ago,you never heard much said about it? A:-No sir for I was not one that went out into society a great deal,and I never saw a great dael in print about it either. The first thing that aroused a conversation in my hearing,after I got to hearing the doctrine preached,was because they were trying to make opposition to my becoming a member of the church.
68 Q:-That was amongst your frienbs.? A:-Yes sir.
69 Q:-They were opposed to your becoming a member of the church? A:-Yes sir.,-it was my friends and neighbors that were opposed to it.
70 Q:-What church did you belong to before that? A:-Before I joined the Latter Day Saints?
71 Q:-Yes ma'am? A:-I never belonged to any church in my life,and never heard a doctrine preached that I gave a snap for before that time,and I went to church too over since I was a little child.
72 Q:-Youy friends and relatives belonged to other churches A:-Yes sir. to other denominations,-to the christion church,the Methodists,and some to the Cumberland Presbyterians.
73 Q:-Now in your time,have you not heard people use the same kind of language towards the Catholics as you say you have heard used against the Latter Day Saints or Mormons? A:-Yes sir,I have heard the same kind of a spirit expressed towards the Catholics. There was an old lady by the name of Band,when I first commenced going to the Latter Day Saints' church,told my children if I joined it to disown me,-
74 Q:-Who was it told your children that? A:-It was old Betsey Land ~~told~~ told them that.
75 Q:-She was a Catholic? A:-No sir,she was a Cumberland Presbyterian. All the neighbors were against it,-against my joining the Latter Day Saints,and did all they could to prevent it.
76 Q:-The Latter Day Saints were not popular in that neighbourhood? A:-No sir,and it showed that they had the same spirit of indignation towards them that they had in the past.
77 Q:-Now in all that time did any body organize a mob to trouble them? A:-No sir,not in this country,but I have heard of their being badly treated in other localities.

Witness fees $1.50 paid by plaintiff.

By Mr.E.L.Kelley,-"We wish to offer in evidence the title page of the new revised and annotated code of Iowa,published at Des Moines,Iowa,as follows,-

"New Revised and Annotated Code of Iowa,containing all the Statutes of the State of Iowa,of a general and permanent nature in force July 4th I882,being the code of I873 as amended by statutes passed by the General Assembly at its subsequent sessions,including the nineteenth, and all the general and permanent statutes passed since I873 suitably arranged;together with full notes of the decisions of the Supreme Court of the State upon the various provisions and subjects of the statutes down to and including volume 5I,Iowa reports,and also a supplement containing and additional notes of decisions down to and including volume 56,Iowa reports,and many additional notes of decisions found in prior volumes;containing also the rules ot the Supreme Court and the organic laws of the territory and state. Made legal evidence in the courts by Chapter I96 laws of I880. By William E. Miller,Ex-Chief Justice of Iowa,and author of "pleading and practice",etc. Des Moines, Mills and Company,Publishers I882.

We also offer in evidence the certificate on page three of the Secretary of State,and chapter I96 of the laws of the state of Iowa,-as follows.

Chapter I96,Laws of I880 An act relating to evidence. Section I. Be it enacted by the General Assembly of the State of Iowa,-that the Revised and Annotated Code of Iowa,prepared by William E. Miller,and to be published by Mills & Co of Des Moines,Iowa,when so published and certified by the Secretary of State to embrace the Code of Iowa of I873,as amemded by subsequent statutes and the several and permanent statutes of the fifteenth,sisteenth seventeenth and eightheenth general assemblies,shall be receivable in evidence in all the courts in this state, with like effect as if published by the state.

Approved March 27th I880.

Certificate of the Secretary of State.

State of Iowa,
Office of Secretary of State.
Des Moines,May 28th I880.

I,J.A.T.Hull,Secretary of State,of the State of Iowa,hereby certify that I have examined the "Revised and Annotated Code of Iowa," published by Mills & Co of Des Moines, Iowa, and find that it embraces the code of I873,as amended by subsequent statutes,and the general and permanent statutes of the fifteenth,sixteenth,seventeenth and eightheenth General Assemblies.

In testimony whereof,I have hereunto set my hand,and affixed the Great Seal of the State,this twentyeighth day of May A. D. I880

(Seal)

J.A.T.Hull,
Secretary of State

we also offer in evidence chapter two of title nine on corporations other than those for pecuniary profit,on page two hundred and seventy five,as follows,-

Chapter 2. "Corporations other than those for pecuniary profit.

Section I09I,-Associations for the establishment of seminaries of learning,churches,lyceums,libraries,lodges of odd fellows or masons or other institutions of a benevolent or charitable character,agricultural societies,subordinate granges of the patrons of husbandry,and associations for the detection of horse-thieves,and of other depredators upon property,may become incorporated in the manner directed in the preceding chapter,so far as applicable,and shall hereby become vested with all the powers and privileges and subject to all the liabilities provided by that chapter,except as herein modified.

Section I092,-Their articles of incorporation shall be recorded by the recorder of deeds of a county where the principle place of business is kept only; but a newspaper publication is not requisite.
Sec I093,-No dividend,nor distribution of property among the stock-holders shall be made until the dissilution of the corporation.
Sec I094,-Corporations of an academical character are invested with authority to confer the degrees usually conferred by such institutions.

Charitable,Scientific and Religious Associations.

Sec I095,-Any three or more persons of full age,citizens of the United States,a majority of whom shall be citizens of this state,who desire to associate themselves for benevolent,charitable,scientific,religious or missionary purposes,may make,sign and acknowledge,before-any officer authorized to take the acknowledgements of deeds in this state,and have recorded in the office of the recorder of the county in which the business of such society is to be conducted,a certificate in writing,in which shall be stated the name or title by which such society shall be known,the particular business and objects of such society,the number of trustees,directors or managers of such society for the first year of its existence.
Sec I096,-Upon filing for record the certificate as aforesaid,the persons who shall have signed and acknowledged such certificate,and their associates and successors, shall,by virtue thereof,be a body politic and corporate by the name stated in such certificate,and,by that,they and their successors shall,and may have succession,and shall be persons capable of suing and of being sued,and may have,and use a common seal,which they may alter or change at pleasure;and they and their successors,by their corporate name shall be capable of taking,receiving,purchasing and holding real and personal estate;and of making by-laws for the management of its affairs,now inconsistent with law.
Sec I097,-The society so incorporated,may annually or oftener,elect from its members its trustees,directors or managers at such time and place,and in such manner as may be specified in its by-laws,who shall have the control and management of the affairs and funds of the society,a majority of whom shall be a quorum for the transaction of business;and whenever any vacancy shall happen among such trustees,directors or managers,by death,resignation or neglect to serve,such vacancy shall be filled in such manner as shall be provided by the by-laws of such society When the body corporate consists of the trustees,directors or managers,of any benevolent,charitable,literary,scientific,religious or missionary institution,which is,or may be established in this state,and which is,or may be,under the patronage,control,direction,or supervision,of any synod,conference,association or other ecclesiastical body in such state established agreeably to the laws thereof, such ecclesiastical body may nominate and appoint such trustees,directors and managers,according to usages of the appointing body,and may fill any vacancy which may occur among such trustees,directors or managers,and when any such institution may be under the patronage,control,direction or supervision of two or more of such synods,conferences,associations or other ecclesiastical bodies,such bodies may severally nominate and appoint such proportion of such trustees,directors or managers,as shall be agreed upon by those bodies immediatyle concerned. And any vacancy occurring among such appointees last named,shall be filled by the synod,conference,association or body having appointed the last incumbent.
Sec I098,-Any corporation in this state of an academical character the memberships of which shall consist of lay

members,and pastors of churches,delegates to any synod, conference or council,holding its annual meetings alternately,in this and one or more adjoining states,may hold its annaal meetings for the election of officers and the transaction of business in any adjoining state to this,at such place therein as the said synod,conference or council shall hold its annual meetings; and the election so held,and business so transacted,shall be as legal and binding as if held and transacted at the place of business of the corporation in this state.
Sec I099,-In case an election of trustees,directors or managers,shall not be made on the day designated by the by-laws,said society for that cause shall not be dissolved but such election may take place on any other day directed by such by-laws.
Sec II00,-The provisions of this chapter shall not extend or apply to any association or individual who shall,in the certificates filed with the recorder,use or specify a name or style the same as that of any previously existing incorporated society in the county.
Sec II0I,Any corporation formed under this chapter shall be capable of taking,holding and receiving property by virtue of any devise or bequest contained in any last will or testament of any person whatsoever; but no person leaving a wife,child or parent,shall devise or bequeath to such institution or corporation more than one fourth of his estate after the payment of his debts,and such devise or bequest shall be valid only to the extent of such one fourth.
Sec II02,-The trustees ,directors or stock holders of any existing benovelant,charitable,scientific,missionary or religious corporation,may,by conforming to the requirements of Section ten hundred and ninety five of this chapter re-incorporate themselves,or contihue their existing corporate powers,and all the rpoperty and effects of such existing corporation shall vest in and belong to the corporation so re-incorporated or continued."

I also desire to offer in evidence Chapter 40 of the laws of I874 as follows,-

(Chapter 40,Laws of I874.)
Corporations not for pecuniary benefit.

An act to amend Chapter 2,title ix of the code or I873 to authorize corporations other than those for pecuniary profit,to change their name,and to amend articles of incorporation.
Section I,-Be it enacted by the General Assembly of the State of Iowa that title ix chapter 2,of the code of I873, be amended as follows,-
Any corporation other than those for pecuhiary profit, may change the corporate name thereof,or amend the articles of incorporation,or the original certificates thereto by a vote of a majority of the members or stock-holders of the said corporation in such manner as may be provided by the articles of incorporation thereof.
Section 2,-In case of the body corporate consisting of the trustees,directors or managers of any benevolent,charitable,literary,scientific,religious or missionary institution under the patronage of any synod,conference or association,or other ecclesiastical body ~~or~~ the state,or ~~of~~ two or more of them,said amendment or change may be effected with the consent of said trustees,directors or managers,or with either of the said patronizing bodies,but such change or amendment shall not be made without the vote of a majority of each of said trustees,direcrors or managers,and of each of the said patronizing bodies,legally expressed and certified thereto by the secretary,clerk,or recording officer of such board of trustees,directors or managers and of each

of the patronizing bodies.
Section 3,-The change or amendment of the articles of incorporation shall be recorded by the recorder of deeds as the original articles of incorporation are required to be,and the recorder shall make upon the margin of such record a reference to the book and page of the record of such original articles of incorporation;and from and after such act of recording such change or amendment shall be in full force and effect as the original articles of incorporation so amended.
Section 4,-The corporation with its new name or with such amended articles of incorporation or certificate,shall be entitled to all the rights,powers,immunities,and franchises that it possessed before such change or amendment,and shall be liable upon all contracts,obligations,liabilities entered into,incurred,or binding upon such corporation by or under the old name or articles of incorporation to the same extent and manner as though no such change or amendment had been made.
Approved March 18th,1874."

Now that embraces all that I believe relates to this case (The copy of the statutes of Iowa,above described,are marked "Exhibit X.J.M.Orr".)
By Mr.E.L.Kelley,-"Let the record show that the plaintiff has permission to put in evidence the certified copy of the articles of incorporation of the Re-organized Church of Jesus Christ of Latter Day Saints,on file in Kendall County,Illinois,at any time before the closing of the testimony for the defendant."
By Mr.Southern,-"Yes sir,that is correct,-that is all right."
It is agreed and stipulated by and between the parties hereto by their respective attorneys as aforesaid that all the testimony taken is this case may be transcribed and filed by the Notary Public taking the same in shorthand,and who was also the Examiner appointed by the Court to take the testimony in the Territory of Utah,at his convenience without reference to the terms of the stipulation entered into heretofore by which it was stipulated that the testimony taken by the parties hereto should be filed by certain specified dates,-provided that the same shall be on file in the office of the Clerk of the Circuit Court in which this cause is pending before the opening of the September term of said court.
(The foregoing stipulation was dictated by Mr.Southern,& Counsel for defendants.)
By Mr.E.L.Kelley,-"I do not know how it will be,but I suppose we have a right to take testimony until the ninth of May,but I don't know that we will avail ourselves of that right,and take any more testimony at this time. I would like to know about the taking of your testimony Mr. Southern,and if it is convenient to you I would like you to defer taking until the first of June or a little later. My brother says that he cannot get here before the first of June,and I have engagements that will take up my time pretty fully until then,therefore I would like to know about when you propose to begin taking testimony,-and I would also like to know in case we deem it advisable to take any further testimony,what time it would be convenient to do so."
By Mr.Southern,-"It is agreed that the plaintiff has until the ~~first~~ 2nd of May to put in any additional testimony they shall see fit to put in giving us reasonable notice of the time and place of the taking of the same,so we may be on hand."
By Mr.Kelley,-"Suppose- we adjourn by agreement to meet on the fifth or sixth."
By Mr.Southern,-"Put it the second Monday in May."

By Mr.Kelley,-"Let it be Friday,the sixth of May,so then it will not be necessary to give notice."
By Mr.Southern,-"Well that is all right. Now if you don't appear here by one o'clock on the 6th you will not be here on that day at all?"
By Mr.Kelley,-"I will notify you and the Examiner by telegram or letter in case I am not coming."
By Mr.Southern,-"Very well,-the understanding then is that we adjourn until Friday the sixth of May.?
By Mr.Kelley,-"Yes sir,that is the date. Now there is one thing I have forgotten. In order to introduce what might be termed secondary evidence,I offer the certificate of the Adjutant General of the State of Missoiri, dated April 28rd I892,certifying that the order of Governor Boggs,dated October 27th I838,expelling,or banishing the Mormons from the State of Missouri is not to be found among the records of that department,signed by J.A. Wickham,Adjutant General,with the seal of the state,and ask that the same be marked Exhibit "Y" by the Notary Public."

Exhibit "Y" above offered in evidence,is in words and figures as follows,to wit,-

State of Missouri,
Adjutant General's Office.
City of Jefferson,April 28rdI892.

It is hereby certified that the order of Governor Boggs dated October 27th I838,expelling,or banishing the Mormons from the State of Missouri,is not to be found among the records of this department.

J.A.Wickham,
Adjutant General.

(Seal of Adjutant
General's Office)

By Mr.Kelley,-"And also in connection with that last offer I offer in evidence the certificate of the Secretary of State with reference to the Judges of the Courts of Caldwell County,and also a letter from the Secretary of State,and duly signed by him,showing that no such order by Governor Boggs exists in the office of the Secretary of State,and ask that the same be marked Exhibit "Z".

Exhibit "Z" above referred to in evidence,is in words and figures as follows,to wit,-

State of Missouri,
Department of State,
City of Jefferson,
April I9th I892.,

Dear Sir,-

Replying to yours of the I8th inst;-

Ist,-I am unable to send you "a duly certified copy of the order of Gov. L. W. Boggs expelling the Mormons or Latter Day Saints from Missouri" because no such order is on file,or on record in this department for I838.

2. No record of that character is on file for either of the years I833 or I834,the records up to November I837 being destroyed by the fire that burned the capitol.

3. I send you a certified copy of the record of the election and appointments of justices of the county court for Caldwell County for the years you request,the state's fee for which is $I.50 which is deducted from your money order,and balance ($I.50) returned herewith.

Very Respectfully.
A.A.Lesueur,
Secretary of State.

P.P.Kelley,Esq.

Exhibit "27" which is the record referred to as being the certificate of the Secretary of State as to the Judges of Caldwell County,is in words and figures as follows to wit,- (It being impossible to copy in the record the exhibit as it appears.)

James Allred,Arthur Morrison,Elias Higbee,-appointed August 25th,I838,Justices of the County Court,elected August I838,-left the county,being Mormons.

Samual Bogart,(date of appointment) June 3rd I849,- Justice of the County Court,-appointed by Gov. vice those last named until next gen'l election,-removed.

James Baxter and James M. Ramsey were appointed at the same time and in the same manner as Samuel Bogart,-James Baxter resigned March I840,and James M. Ramsey resigned September I840.

Then appears the entry "Gov" until election.

Armisted Early (date of appointment) March I6th I840,- Justice of the County Court,-(term of office and how appointed) Gov' until election" vice S. Bogart,rem.

David Hughes,(date of appointment) March I6th I840,- Justice of the County Court (term of office and how appointed) Gov until election,- vice J. M. Ramsey red.,resigned Sep't I840.

(Date of appointment)September 23rd I840,- X X X

The history of Caldwell and Livingston Counties,Missouri above referred to,the title page of which has just been read by counsel for the plaintiff,and which is given above is marked Exhibit "26".

By Mr.Kelley,-" I offer from page one hundred and forty of exhibit 26,the copy of the written speech by General Clarke,delivered to the Mormons at Far West,Missouri,on the Temple Square,-all that part of his speech, or of the contents of that page beginning with the word "gentlemen" on page one hundred and forty,and ending with the words "irretrievably ruined" on page one hundred and forty one.

The following is a copy of the above offer from page one hundred and forty of exhibit 26,to wit,-

"Gentlemen;-You whose names are not attached to this list of names,will now have the ptivilege of going to your fields to obtain corn for your families,wood,etc. Those that are now taken will go from thence to prison to be tried,and receive the due de-merit of their crimes; but you are now at liberty,all but such charges as may be here after preferred against you. It now devolves upon you to fulfill the treaty that you have entered into,the leading items of which I now lay before you. The first of these yu you have already complied with,which is,that you deliver up your leading men to be tried according to law. Second,-that you deliver up your arms,-this has been attended to. The third is that you sign over your properties to defray the expenses of this war,-this you have also done. Another thing yet remains for you to comply with,-that is,that you leave the state forthwith; and whatever your feelings concerning this affair,whatever your innocence,it is nothing to me. Gen Lucas,who is in authority with me,has made this treaty with you. I am determined to see it executed. The orders of the Governor to me were,that you should be exterminated,and not allowed to continue in the state,and had your leaders not been given up,and the treaty complied with before this,you and your families would have been destroyed,and your houses in ashes.

There is a discretionary power vested in my hands,which I shall try to exercise for a season. I do not say that you shall go now,but you must not think of staying here another season,or of putting in crops,for the moment you do the citizens will be upon you. I am determined to see the Governor's message fulfilled,but shall not come upon you immediately. Do not think that I shall act as I have done any more,-but if I have to come again ~~become~~ the treaty which you have made here shall be broken,you need not expect any mercy,but extermination,for I am determined the Governor's order shall be executed. As for your leaders do not once think--do not imagine for a moment,-do not let it enter your minds,-that they will be delivered, or that you will see their faces again,fot their fate is fixed,their die is cast,their doom is sealed.

I am sorry-gentlemen,to see so great a nember of apparently intelligent men found in the situation that you are and Oh,that I could invoke the spirit of the unknown God to rest upon you,and deliver you from that awful chain of superstition and liberate you from these fetters of fanaticism with which you are bound. I would advise you to scatter abroad,and never again organize with bishops,presidents,etc.lest you excite the jealousies of the people, and subject yourselves ~~yourselves~~ to the same calamities that have now come down upon you. You have always been the aggressors,you have brought upon yourselves these difficulties by being disaffected,and not being subject to rule,-and my advice,that you become as other citizens, lest by a recurrence of these events you bring upon yourselves irretrievable ruin."

By Mr.Southern,-"To these offers of proof we object on the ground that they are incompetent,irrelevant and immaterial,and have not been identified in a manner to make them competent testimony,-and the Defendants objects to the certificate of the Secretary of State marked Exhibit 27 on the ground that it does not show the continuation in office by Elias Higbee,as suggested in the proposition offering it in testimony."

The further taking of depositions herein was hereupon continued until Friday the sixth day of May I892,at which time (the hour of ten o'clock A.M.) appeared the parties hereto as hereinbefore set forth,and the further taking of said depositions was continued until Saturday the 7th day of May I892 at the hour of I0 o'clock A.M. then and there to be continued at the place in that behalf first aforesaid,-

Now on the 7th day of May I892,the same being Saturday, at the hour of I0 o'clock A. M. come the parties hereto as aforesaid,and the further taking of the depositions herein was continued,pursuant to adjournment,-

Jacob Gregg,of lawful age,being produced,sworn and examined on the part of the plaintiff,testified as follows--

By Mr.E.L.Kelley,-"Before proceeding with the examination of this witness I wish to make this statement,-before we closed on the last day we were here I made the statement, which was accepted by the defendants as being the fact, that we would offer a certified copy of the articles of incorporation under the laws of the State of Illinois,-I have that copy here,and now wish to offer it in evidence, after you gentlemen have inspected it. Do you wish to examine it Mr.Southern?"

By Mr.Southern,-"You can make your offer and I will examine it,and make my objections,if I have any."

By Mr.Kelley,-"We offer it on evidence with the certificate and seal of the clerk attached,-and let it appear that we offer it in evidence in pursuance of the notice heretofore given,and have the same marked as an exhibit."

(Marked as "Exhibit 30,J.M.Orr.")

By Mr.southern,-"Let me see that and examine it. We object to this document marked Exhibit 30,for the reason that it is incompetena,irrelevant and immaterial,and for want of proper legal certification and identification; and it is objected to for the further reason or specification because no religious incorporation has any standing in the courts of Missouri as the owner of reputed property in the State of Missouri."

Exhibit 30 is in words and figures as follows,to wit--

Articles of association and by-laws of Re-organized Church of Jesus Christ of Latter Day Saints.

Filed for record Feb.5.A.D.I873.

State of Illinois)
)ss
Kendall County)

I,Isaac Cramer,solemnly swear,that at a meeting of the members of the "RE-organized Church of Jesus Christ o Latter Day Saints" held at Plano in the County of Kendall and State of Illinois on the 2Ist day of October.A.D.I872 for that purpose,Israel L. Rogers,(the presiding bishop of said church) was appointed one of two trustees to be appointed for said church,and that at a subsequent meeting held at the same place,February 3rd,I873,Elijah Banta, (counselor of said bishop) was appointed as one of the other of the two trustees before named; according to the

rules and usages of said church.
And said church adopted at said meeting held on said 2Ist day of October A.D. I872,as its corporate name,the following,vis,-"The Re-organized Church of Jesus Christ of Latter Day Saints."
And that said church adopted as its articles of association and by-laws (which are subject to amendment by a vote of a two thirds majority of the members of said church present and voting at any regular conference)the following,viz,-
Articles of Association adopted by the "Re-organized Church of Jesus Christ of Latter Day Saints" at a general meeting of the members of said church held at Plano in the County of Kendall in the State of lIlinois,on the 2I day of October. A.D. I872.
Article Ist,-The name of this association and organization shall be "The Re-organized Church of Jesus Christ of Latter Day Saints" and shall be incorporated under the laws of Illinois under and by that name. The church adheres to the doctrines and tenets of the original church of Jesus Christ of Latter Day Saints as organized by Joseph Smith (the martyr) now deceased,on the sixth day of April A.D.I830 as the same has been re-organized by Joseph Smith now of Plano,with the advice and assistance of Jason W. Briggs,Zenas H. Gurley,William Marks Sen'r,Israel L.Rogers Isaac Sheen and many others.
The church government consists first of a first presidency consisting of a President and two Counsellors.
2nd,-A quorum of the Twelve,-(a traveling high council.)
3rd,-"A standing High Council" of the Church,and at each "Stake" a similar subordinate "standing High Council", consisting of twelve chosen for that purpose.
4th,-A High Priest's quorum.
5th,-One or more quorums of Seventy,not exceeding seven.
6th,-Quorums of Elders.
7th,-Bishops,consisting of a presiding Bishop,and associate,or local bishops,-said bishops having temporal jurisdiction subject to the general direction of the church and higher church authorities.
8th,-Quorums of Priests.
9th,-Quorums of Teachers.
I0th,-Quorums of Deacons.
IIth,-Until otherwise provided,the re-organized church at Plano,Illinois,shall be the principal or central church. All others shall be "stakes" or "branches" but all subject to the same church government subordinate to this organization,and constituting a part thereof.
A branch may be organized at any time or place by the concurrence of six or more resident members in good standing of said Re-organized Church,one of whom must be an elder,priest,teacher or deacon. A stake is a large branch organized into a "stake" at the direction of a General Conference of the chuech; and Plano,Kendall County,Illinois,shall be the principal place of business of said corporation,said re-organized church and its stakes and ~~br~~ branches,are in all respects subject to the doctrines and tenets of the said original and re-organization in this article mentioned.
2nd,-The Presiding Bishop and his Counselors shall be the trustees of the church and perform all the duties contemplated by an act entitled "an act concerning corporations" approved April I8th I872 and in force in Illinois,July Ist I872,a majority of whom may perform any act under said law or contemplated by this organization.
Article 3rd,-This organization shall publish,print,circulate,sell or give away,religious,school and missionary

rules and usages of said church.
And said church adopted at said meeting held on said 2Ist day of October A.D. I872,as its corporate name,the following,vis,-"The Re-organized Church of Jesus Christ of Latter Day Saints."
And that said church adopted as its articles of association and by-laws (which are subject to amendment by a vote of a two thirds majority of the members of said church present and voting at any regular conference)the following,viz,-
Articles of Association adopted by the "Re-organized Church of Jesus Christ of Latter Day Saints" at a general meeting of the members of said church held at Plano in the County of Kendall in the State of lIlinois,on the 2I day of October. A.D. I872.
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2nd,-The Presiding Bishop and his Counselors shall be the trustees of the church and perform all the duties contemplated by an act entitled "an act concerning corporations" approved April I8th I872 and in force in Illinois,July Ist I872,a majority of whom may perform any act under said law or contemplated by this organization.
Article 3rd,-This organization shall publish,print,circulate,sell or give away,religious,school and missionary

books,papers,tracts and periodicals,such as said church shall deem necessary or useful for the promotion of religion and morality. And for that purpose may purchase or own such printing presses,types,cases and material as shall be necessary to conduct such publication,binding and circulation of books and published matter aforesaid; ~~an~~ and said publication business shall be under the immediate control and management of a Committee of Publication,to be nominated by the Presiding Bishop,and confirmed or approved by the church at any General ~~or~~ Annual or semi-annual Conference,but the title of the property to be in the corporation,and all suits relating thereto must be in the corporate name.

Article 4th,-This corporation may purchase and hold or receive donations,or in any other legal way,procure,receive,and hold the title of any real or personal property for the use of said church,its stakes and branches,the title of all which,whether purchased,donated,or otherwise legally obtained or received,and wherever the same shall be located,whether procured by the general church,or any stake or branch,shall be taken to the corporation and in the corporate name of said re-organized church: and said corporation shall hold the same for the use of said church its stakes and branches;and said corporation may sell and convey the same,or any part thereof,applying the proceeds to the use aforesaid.

Article 5,-This church corporation shall have a corporate seal,all conveyances shall be signed by the Presiding Bishop as such Trustee,and sealed with the seal of said corporation.

These articles of association shall constitute the by-laws of said corporation,until revised or amended,said by-laws or articles of associstion may be revised or amended at any General Conference of the Church by a two-thirds majority vote of the members of said church present and voting at such Conference. Notice of such amendmend shall be given in the church paper at least two months before action can be had on such proposed change. The place of business of said corporation may be changed from Plano aforesaid,to any other place by direction of the Quorum of the First Presidency,the Bishop and Counselors and the Publishing Committee. Upon such change to be made,a certified copy of the affidavit of agreement of this Corporation,together with a similar affidavit of the action of said church re-organizing said corporation,and naming such new place,or principal business,shall be filed in the office of the recorder of deeds of the County in which such new principal place of business is located. Such change of principal place of business shall not change or affect the rights of said corporation: but only the location of its principal office or place of business. Said corporation may establish subordinate places of business at any time,and in any place,but shall be subject to the control of the general office. Said corporation may appoint agents at any time or place to act in behalf of said corporation. Said corporation may sue and be sued, defend and be defended in all courts and places,but all shall be done in said corporate name.

Article 6th,-All property now held,or owned by said church in the name of any person,or persons,as trustees or otherwise,including the publication establishment at Plano,Illinois,shall vest in said corporation; and all persons holding such property in trust for said church are hereby directed and required to transfer and convey the same to said corporation,as the property of said church and said corporation shall by operation of law succeed to all property now owned by said church or held

for its use,and may sue and recover the same in the name of said corporation.

Article 7th,-The term of office of said ~~corporation~~ trustees shall be as follows,-Of the Trustee who is the Presiding Bishop of the Church,during his good behaviour,and while he remains such Presiding Bishop,of the other trustees who are the Counselors of said presiding Bishop during their good behaviour,not extending the term of office of said Presiding Bishop as such Trustee,except as hereinafter provided. Upon the death,resignation or removal from office of said Presiding Bishop,the office of the other Trustees shall become vacant,upon the appointment of another Presiding Bishop who shall be the successor as Bishop,and his assuming the office of such Trustee,and thereupon such new presiding Bishop and his Counselors shall be the Trustees of said corporation. ~~except the~~ being understood that Presiding Bishop of said church and his Counselors. Said Trustees or either of them may be removed ~~xxx~~ by said church for cause,the same as any other church officer.

At said meetings Joseph Smith acted as Chairman or Presiding Officer,and this affiant as Secretary.

Isaac Cramer.

Subscribed and sworn to before me
this 4th day of Feb'y. A. D. 1873.
A. M. Beebe.
(Seal) Notary Public.

State of Illinois)
)
County of Kendall)

I,Avery N. Beebe,Clerk of the Circuit Court,and ex-officio recorder,in and for said County in the state aforesaid,do hereby certify the annexed to be a true and correct copy of the record of an instrument filed in my office the 5th day of February A. D. 1873, and recorded in book 31 at page 578.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Yorkvill this 5th day of May A. D. 1892.

Avery N. Beebe. Clerk.

(Seal)

I Q:-What did you say your name was? A:-Jacob Gregg.
2 Q:-Where do you reside at the present time,Mr. Gregg?
A:-At Grain Valley.
3 Q:-What county and state is that in? A:-In Jackson County in the state of Missouri.
4 Q:-How long have you resided there? A:-In the county of Jackson I have resided sixty seven years.
5 Q:-What is your age at the present time,Mr.Gregg?
A Q:-In the state of Missouri I have resided nearly eighty years. What was the question?
6 Q:-I asked you what your age was at the present time?
A:-My age is ninety or a little past. I was ninety years old the ninth day of last month.
7 Q:-You may state what,if any,official position you have held in the county of Jackson since you have resided in it,Mr.Gregg? A:-Well I have held a good many offices first and last in this county. I believe the first office I held was before this county was organized as a county,-that is,before this county was organized as it is now. In ~~xxx~~ this county first I was one of its executive officers commonly called a

constable. I believe that was the first office I held in this county.

8 Q:-What time was that? A:-Did you ask me when that was?

9 Q:-Yes sir,-in what year was that? A:-That was a long time ago,-that was in the year '26.

10 Q:-That was in the year 1826? A:-Yes sir.

11 Q:-What office,if any,did you hold in this county in the year 1833? A:-I held an office then. I held the office of Sheriff.

12 Q:-You were the sheriff of this county in 1833? A:-Yes sir. I was elected in '32.

13 Q:-Well,how long did you hold the office of sheriff? A:-The term was two years,but I was elected for the second term and held it four years altogether.

14 Q:-You were sheriff of this county,then,for four years? A:-Yes sir.

15 Q:-You may state now,Mr.Gregg,what happened during your term of sheriff,-that is,to your knowledge,what happened with reference to a portion of the citizens of Jackson County,being driven from the county? A:-Well,I would state there,that being Sheriff of the county at that time,I was not in that in any way. Whatever was done at that time was kept from me,-they did not let me know about it,because I was the Sheriff of the County. Of what is termed,you know, driving the Mormons away from Jackson County,-being sheriff I was not with any of it,but I can tell you what I heard,if you want me to do so,and that is all

16 Q:-How did it happen that you were not a witness,and did not see any of it? A:-Well,because I was an executive officer,and they did not allow me to get into their plans,-they kept it secret from me because I was an executive ~~officer~~ peace officer of the county I suppose. They did not warn me about them at all when they were doing it.

17 Q:-Well,what do you know about it? A:-Well,the first movement that was made was when they tore down the printing office. At that time I lived out some two miles in the country,and I was in the habit of coming in every morning to attend to the business of my office,and when I came in one morning I saw a crowd of men standing about the corner of the court house, the court house then was a very small house,-and I saw this crowd there,and saw that one of them had a rope in his hand and when I got up about half ways to them,they sent two men to meet me,and these men said they had seme business with me back at the tavern that was on the corner where the Merchant's Hotel is down there,and so they took me back into a room there

18 Q:-Who took you there? A:-These two men that they sent to me did. They took me over there to the tavern and took me to a room there,and one of them then went out and locked the door after him and left me there with the other one,and so I knew nothing of what was going on on the outside until it was all over. They had torn down the printing office and dispersed before I got out to see what had been done.

19 Q:-Did you make any order or effort with reference to trying to arrest the parties at that time? A:-Well I did not know who the parties were at that time that did it. I did not know of my own knowledge,but I thought there was one I knew under the name of King.

20 Q:-A man by the name of King? A:-Yes sir.
21 Q:-Who was engaged in this work of destruction, generally? Was it the citizens generally? A:-Oh No, it wasn't. It was the crowd that was congregated there that first started it. It was not the citizens generally, but the feeling was wrought up a great deal by some reported threats, you know, that it was said was made by the Mormons as they were called, but whether they were true or not I can't tell.
22 Q:-Well after that excitement,-after you were let out of that house or room where they locked you in, then what did you do? A:-Everything was all quiet then. It was all civil then,-there was no fuss or riotous conduct at all after I was let out of the room. Everything was quieted down and was all civil enough after I got out.
23 Q:-What, if anything, had been done by the mob, or by the citizens during the time you were in that room ~~and~~ before? A:-Well I can't say just what had been done, but I learned afterwards that they had demolished the printing office, for they seemed to think that was the seat of the trouble, and they had gone to work and demolished it. That printing office seemed to be the seat of the trouble between the factions and they had demolished it.
24 Q:-Had they done anything else? A:-I never learned that they done anything else then.
25 Q:-Did they tear down any houses? A:-I think they demolished the printing office.
26 Q:-Well did they demolish or tear down or damage any other buildings? A:-Well I can't say how as to that. I can't recollect now as to that. I can't say as to that, for this is a matter that occurred so long ago and is something I have not thought of for a good many years.
27 Q:-Where were the people, if you know, at that time, calld "Mormons"? A:-Where were they?
28 Q:-Yes sir, Where were they? A:-The Mormons?
29 Q:-Yes sir? A:-There was some of them living on some town lots here in Independence. There were some of them living at that time on some town lots here in the town of Independence, but the town at that time was a small place compared to what it is now and the town site covered only one hundred and sixty acres, I think,-the town then was not near so large in territory as it is now.
30 Q:-Well were these people called Mormons at their homes afterwards or were they ^driven away from their homes?
A:-No sir, they were not driven away then.
31 Q:-They were not driven away at that time? A:-No sir, but they were afterwards.
32 Q:-Well when were they driven away,-go on and state that? A:-In the winter or spring of '36 it was.
33 Q:-In the winter or spring of what year? A:-'36. Now that is my recollection.
34 Q:-Well were these people driven across the river at that time, to your knowledge? A:-Well they were not driven,-my understanding is that they were not directly driven away, but they agreed to go across the river and the citizens here permitted them to go,-they permitted them to take that course,-that is the way I understood it.
35 Q:-Then they did not remain here? A:-No sir, they did not remain.
36 Q:-How many of them went across the river, if you know? A:-No sir. I do not know anything about that. I can't

say how many of them there was went across the river, for that is something I don't know anything about at all.

37 Q:-Could you tell Mr. Gregg, whether or not any of them remained here? A:-Not at that time.

38 Q:-What do you mean by that answer? A:-I mean that my understanding was that none of them remained here.

39 Q:-Were they permitted to remain? A:-Well I don't think they were.

40 Q:-You had resided here for several years before that time,-that is, for several years before '38 I believe you stated? A:-Yes sir.

41 Q:-And you knew most of the people who lived here at that time in this county? A:-I knew a great many of them.

42 Q:-Was there a man living here at that time by the name of Boggs who was afterwards X Governor of this state governor of Missouri? A:-Yes sir, and I was acquainted with Boggs for several years before that time. I was acquainted with him while a citizen of Howard County.

43 Q:-I will also ask you whether or not you knew a man by the name of Weston,-Samuel Weston,-at that time? A:-Yes sir. I knew them both well.

44 Q:-Do you know what part this man Samuel Weston took in the ptoceedings of that mob? A:-No sir. I could not.

45 Q:-Could you state whether or not he acted as the chairman of the indignation meeting? A:-No sir.

46 Q:-Were you present at that meeting? A:-No sir. I was not present. I was never informed, according to my recollection, as to who was in that meeting. The fact is I have forgotten that there was any meeting of that kind now. I don't recollect now of there being any meeting of that kind. If there was any meeting of that kind I recollect that I was not present.

47 Q:-I will ask you now what the state of the feeling of the people was at that time against the Mormons? A:-Why it was rather indignant. There was a feeling of a kind of intense indignation against them. There can't be any kind of question as to that,-the people were wrought up to a atate of intense indignation against them.

48 Q:-I will ask you what effect, if any, upon the people or any of them, to have had them assist you X in defending the Mormons. What would have been the result of such an order if you had issued such an order?

48 Q-I will ask you what the result would have been to your kind if you had given an order as Sheriff to

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is immaterial and irrelevant and at the same time argumentative, and calls for an opinion of the witness.

49 Q;-Go on and state what the feeling was in that regard A:-Well the feeling of the people was,-I am only to answer the question with reference to what the result would have been if I had called on the people to assist me in enforcing the law? Is that it?

50 Q:-Yes sir? A:-Well I don't know whether there was,-I think a portion of the citizens would have obeyed, but some others wouldn't. There is no doubt about ~~th~~ that. Now that is my opinion,-while some of the citizens would, in my opinion, have obeyed the order, there was others that would not have done so.

51 Q:-You lived right along in this community for years afterwards didn't you? A:-Yes sir.

52 Q:-You have been living in this community from that time to this? A:-Yes sir,I have been living here ever since that time,-I have lived in this county ever since '26,-well that was the time I was first elected to an office here.

53 Q:-And you have known the feeling of the people since that time? A:-Yes sir.

54 Q:-How long,Mr. Gregg,was it after this time you speak of when the printing press was destroyed and the Mormons were expelled from this county,-how long was it after that time before the state of feeling had become such in this county,that it would have been safe for the Mormons,as they are called,to have returned here to take up their residence here as citizens of this county without being molested? If you can state that Mr. Gregg,please do so? A:-Well there are some circumstances that I would state so as to give you an idea. There was the circumstance of Boggs being shot and that was laid upon the Mormons,and that produced much feeling.

55 Q:-How long was that after the Motmons had been driven away that this occurred? A:-Well I can't say positively,but I think it was some three or four years. I can't say positively but I think it was about 3 or 4 years.

56 Q:-It was after he was out of the office of governor was it not that he was shot? A:-Yes sir.

57 Q:-Well now go on and state what the feeling of the citizens was here,-of the citizens that remained was, as against the Mormons,and whether they would have been permitted to have come back without violence? A:-No sir.

58 Q:-What do you mean by that answer?? A:-I mean that I don't think they would have been permitted to come back at that time without meeting with violent treatment.

59 Q:-Well how long did that state of feeling continue,if you know? A:-Well,it gradually wore off,-it gradually wore off.

60 Q:-Well did it continue along for several years? A:-Undoubtedly it did.

61 Q:-Well about how long,in years,did it continue,if you can state? A:-Well I can't state anything like a definite or correct time. That is something that it is hard to say,for there was some portion of the citizens that did not have any particular ill will or hard feelings towards the Mormons at all,but probably they were in a minority,while others had an intense feeling of hostility against them,and would have offered them violence if they had attempted to come back at that time. It was then a good deal as it is now,only at that time men's passions and prejudices were more worked up than at present,-for there are citizens here now I think who don't like the Mormons,don't like to see them coming into the country,and would rather they were not here at this time.

62 Q:-I will ask you to state Mr.Gregg,whether those parties that were driven across the river at that time whether they were permitted to come back to their homes here at all or not after that? A:-They did not do it. I don't know whether it was because they were not permitted to come or how that was,but I know they did not come. [illegible] I don't think however that they were permitted to come back. Now that is my opinion about it. I do not think they were permitted to come back,or would have been permitted to come back at any rate they would not have been permitted to do so for a short time afterwards.

63 Q:-Do you know who succeeded you as Sheriff? A:-Yes sir
64 Q:-Is he living at the present time?? A:-The man who succeeded me?
65 Q:-Yes sir? A:-No sir.
66 Q:-What was his name? A:-No sir,he is not living now. He has been dedd for a good many years? His name was King. John King.
67 Q:-The same one that was the leader of the mob here that you spoke of a few minutes ago? A:-Yes sir.
68 Q:-I will ask you to state,if you know,how long he continued in that office? A:-As Sheriff?
69 Q:-Yes sir? A:-He continued four years. If it is in order I would state further that it is probable that that transaction of King's being elected Sheriff made him the Sheriff of this county.
70 Q:,-That is hardly clear and it would be in order for you to explain what you mean? A:-Well I mean to say that it is probable that his connection with,and the part he played in driving the Mormons out of this country made him Sheriff,-was the cause of his being elected Sheriff of this county. It is altogether likely that that was the reason he was elected.
7I Q:-You refer to the part he took with the Mormons? A:-Yes sir,the part he took in that transaction with the Mormons elected him sheriff I have no doubt.
72 Q:-Were you acquainted with the people who were Mormons or many of them that were here at that time,Mr.Gregg? A:-Not much,-of course I knew some of them,but I cannot say I was well acquainted with them.
73 Q:-Well you were acquainted with some of them? A:-Yes sir,I knew some of the Mormons,-of course I did.
74 Q:-Well just mention these you knew? A:-Well their names have gone out of my recollection almost. The first man that came on here,-I think there was ten of them,-and there was Joe Smith,Sydney Rigdon and one Pratt,-I can't think of his name,but it was Pratt
75 Q:-Was it Parley Pratt? A:-Yes sir,that was the name,-I remember them,-Joe Smith,Sydney Rigdon and Parley Pratt,but farther than that I can't say who they were
76 Q:-Did you know Oliver Cowdery? A:-Well I think I have seen him.
77 Q:-Did you know the Whitmers? A:-No sir,I do not recollect them.
78 Q:-The Whitmers that were here in this county? A:-I do not recollect them.
79 Q:-W.W.Phelps,-did you know him? A:-No sir,I do not remember his name either, They might have been here, and I might have known them too,but it has been so long ago that if I did know them I have forgotten their names.
80 Q:-You saw their papers that were published here at that time did you not? A:-Yes sir,I think I did.
8I Q:-Well what did you see in their newspapers that were published here at that time according to the best of your recollection? A:-I never saw anything further ~~XXXX~~ than common xewspaper reporting and news such as is in any newspaper,-
Counsel for the defendants objects to the question asked the witness and all this line of examination,on the grou grounds and for the reasons that it is incompetent,irrelevant and immateriwl.
82 Q:-Incidentally of course in your business and your work officially and otherwise,you met this people that were called Mormons? A:-Yes sir,for it was at that time that I had to help take the census of the state. At that time the census was taken every five

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82 Q:-Incidentally of course in your business and your work officially and otherwise,you met this people that were called Mormons? A:-Yes sir,for it was at that time that I had to help take the census of the state. At that time the census was taken every five

years,and I took it in this county at that time. In '35 I took the census of the state,and of course I called at every house in the county to get the number of the persons in the families,and the largest settlement at that time was here on this side of Westport.

83 Q:-Now you were an officer of the county at that time? A:-Yes sir.

84 Q:-You were the Sheriff? A:-Yes sir.

85 Q:-And it was your duty to arrest all parties who were engaged in breaking the laws? A:-Yes sir.

86 Q:-Were you called on in the discharge of your official duties to arrest these parties,or any of them, called Mormons for breaking the laws? A:-Well there was put in my hands some writs,-I forget now what they were,-that is,I forgew now whether they were of a civil or criminal character. I do not recollect that,-but at any rate I remember it was not thought prudent in me to go where the parties were,as the country was all in arms at that time you might say,

87 Q-All in arms against the Mormons,you mean? A:-I can't say as that is the case,but there was a great deal of excitement over the question.

88 Q:-These writs,as you call them,were against whom? A:-Against the Mormons?

89 Q:-Yes sir? A:-Yes sir.

90 Q:-What time was that? A:-That was in the winter and in the spring like of '36.

91 Q:-That was after they were driven out of here? A:-No sir,for they were driven out of here in March '36.

92 Q:-Were they living on this side of the river at that time? A:-Ye s sir.

93 Q:-The witness is evidently away off on his dates,but that is immaterial anyway,-well what class of citizens were they,so far as you knew anything about them personally? A:-So far as I know myself of my own personal knowledge??

94 Q:-Yes sir? A:-Well I did not have much to do with them,you know, The greatest communication I had with them was when I was engaged in taking the census,and I know that my impression was that they were a rather law abiding class of citizens. I did not,I know,see anything wrong with them. I thought they appeared to be a law abiding class of citizens.

95 Q:-Who were? A:-The Mormons were. There was some smart men among them,but a large proportion of them were of a rather low class of people.

96 Q:-How did they compare in that respect,-that is in point of law-abiding proclivities and intelligehce with the other people here in this county at that time? A:-Well,pretty well. I think they were about as good and as intelligent as their neighbors. You know how it is in a new country that the average of intelligence is not as high as it is in older communities,and although in a new country they may be good citizens they are as a general thing uninformed,-not well posted,and that was the way it was here at that time.

97 Q:-Is that what you mean by a low class when you speak of them in that way,and the other citizens too? A:-Well they were generally called that,-they were not as intelligent by any means as the citizens of this county are now.

98 Q:-They were not educated? A:-No sir. They were not educated,and if you have ever lived in a new country

have you ever lived in a new country? If you have you will know what I mean.

99 Q:-Yes sir,I have lived in a new country,but it is not necessary for me to state my experience or observation in that respect for it would not be competent in this case as evidence? I was asking you with reference to their moral character,-with reference to their being good citizens,and not with reference to their intelligence? A:-Well I can't say as to that,for I did not mix with them enough,and am not well enough posted to say as to that. The most of my information in that respect was obtained from other citizens.

I00 Q:-And these other citizens from whom you obtained your information were not Mormons? A:-No sir.

Cross examination by Mr.Southern.

I0I Q:-Mr. Gregg,where in this county did you reside in I840? A:-Did you ask me where I resided in I840?

I02 Q:-Yes sir? A:-In I840 I resided in what is called Sni-a-bar Township.

I03 Q:-At that time how long had you been residind there? A:-I had been residind there from the spring of I839

I04 Q:-You had been there a year then? A:-Yes sir.

I05 Q:-Were you frequently in Independence? A:-Yes sir.

I06 Q:-Were you here in any official capacity during those days? A:-No sir,not after '39,for you know I was elected as an officer of the state in '40,-in '50

I07 Q:-You were elected to an office in tha state then? A:-Yes sir.

I08 Q:-Elected as what? A:-I was elected to the legislature in '50.

I09 Q:-Now you say that in '50 you were elected to the legislature as a member of the legislature? A:-Yes sir.

II0 Q:-Now in I840 was there any sentiment against the Mormons here in Independence,that would have prevented the,-that would have prevented well behave d Mormons from living here as the other well behaved citizens lived here? A:-I don't believe they would have been safe. I am pretty sure it would not have been safe for them to have attempted to live here at that time.

III Q:-That was in I840. A:-Yes sir.

II2 Q:-I said provided they were well behaved? A:-I don't know how that would have been,but my impression is that it would not have been safe for them. Of course I don't know,but that is my impression,and I told you the reason I spoke as I did. There was the circumstance of Boggs being shot and badly wounded,and the citizens believed it was the Mormons that did it and that created anew the excitement and prejudice against them,and that was about the time that occured

II3 Q:-Then Governor Boggs was shot about that time was he? A:-Yes sir.

II4 Q:-Then you were elected to the legislature in I850 you say? A:-Yes sir.

II5 Q:-How would it have been with reference to the citizenship of a well behaved Mormon in I850? A:-In what respect?

II6 Q:-In respect to his being permitted to live-here in this community in peace and quiet,-undisturbed? A:-Id don;t believe they would have been interrupted.

II7 Q:-They would not? A:-No sir,not at that time I do not believe. You know the time I suppose,but I forget it,-but it was the time the government sent out a military force,-I don't recollect the time,but it

have you ever lived in a new country? If you have you will know what I mean.

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II7 Q:-They would not? A:-No sir,not at that time I do not believe. You know the time I suppose,but I forget it,-but it was the time the government sent out a military force,-I don't recollect the time,but it

was the time that military expedition was sent out to Utah.

II8 Q:-You refer to the expedition that was sent out to Utah? A:-Yes sir.There was considerable excitement at that time over the Mormon question. These things occurring from time to time had a tendency to keep up the prejudice that existed against them.

II9 Q:-Well were you here in I855? that is,were you here in this country in I855? A:-Yes sir.

I20 Q:-Were you acquainted with the sentiment of the people here in I855? A:-I don't think they would have been interupred then on account of their being Mormons,or on account of their religious sentiment.

I2I Q:-You don't think they would have been interfered with at that time because they were Mormons? A:-No sir.

I22 Q:-That was in I855? A:-Yes sir.

I23 Q:-And would you say the same thing with reference to I860? A:-Yes sir.

I24 Q:-What would you say about I863 in that respect? A:-Well I would just remark that this prejudice that existed against them as a people in this county at one time,wore away gradually. It gradually wore away

I25 Q:-Well was there much of it,or any of it left in I865? A:-Well it is just this way,that it never entirely wore away,for you will find some people even now that have a prejudice against the Mormon people or against their religion.I don't know that the prejudice is or was against the people so much as it was against their religion,and what it was supposed to teach,and there is people here yet that have that same prejudice against them.

I26 Q:-Well in I865 would that sentiment have been such as to have disturbed them in their rights as peacable citizens? A:-Well it oughtn't to be,but in some instances it probably would all during this time.

I27 Q:-Well in your opinion would it have been so in I850 A:-No sir,I don't think it would,but Itt might.

I28 Q:-Nor in I860? A:-No sir.

I29 Q:-Nor in I865? A:-No sir,I don't think it would have made any difference at that time. I don't think the Mormons would have been interrupted at that time if they had come back and been peacable,but as I say, there were,and are here today citizens that do not like them or their religion,but I don't think any one would have interrupted them if they had come back.

I30 Q:-Well will you please state,if you know,what was the cause of the indignation against the Mormons that resulted in this violence in the thirties?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial.

I3I Q:-Will you state what was the cause of the violence against the Mormons in the thirties that you have referred to? A:-Well,I was told,for I did not see so much of it,or none of it I may say,-I was told that they made threats,-the Mormons made threats,-

By Mr.E.L.Kelley,-"We object to anything that is hearsay,-just tell what you know."

By Mr.Southern,-

I32 Q:-Go on? A:-I heard it said that the Mormons claimed this country,and claimed that God Almighty had given it to them,and they claimed the stock and everything that was in it. That was about what I learned was the cause of the trouble. I did not hear the Mormons

say anything of this kind myself,but the citizens said they said so. Now that is all I know about it. Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is immaterial,and calls for a hearsay statement of the witness and to the answer to the question for the same reasons,and moves the court to strike the answer from the record for the reasons above given.

I33 Q:-Then as you understood it,it was something like that that caused the disturbance? A:-Yes sir. How is that? I don't know that I understand that question.

I34 Q:-I asked you if it was something like that that caused the disturbance? A:-Ye s sir? That was the cause of the trouble as near as I could get at it. I talked with the citizens of the county and they talked with me at the time a great deal about it, and they said that was the reason of the disturbance at that time. They claimed that God Almighty had given them this country here with all that was in it for their own,and that raised the disturbance. It was talk like that that was reported to me which brought on this interruption. Now that is my recollection of it,and what I heard about it,but whether or not that was so I cannot say,for there never was a Mormon that said anything like that to me,-I didn't hear the Mormons say anything like that myself.

I35 Q:-Did you ever know a Mormon by the name of Elias Higbee? A:-It seems to me that I heard that name.

I36 Q:-You knew him then? A:-I can't say positively that I knew the name,but it seems to me that I heard it somewhere. It strikes me somehow that I recollect that name,but I can't particularly call it up now,or place it,but it seems to me that I have heard it somewhere. I think I did know him,but I can't particularly call his features up to mind at the present time,but the name is familiar to me in some way.

I37 Q:-Now in your direct examination you said that the trouble here or the feeling was wrought up by threats? A:-Yes sir.

By Mr.Kelley,-"He said that on his cross examination."

By Mr.Southern,-

I38 Q:-Well you said it any way? A:-Yes sir,that is what I said.

I39 Q:-What do you mean by threats? A:-That they would take this country,-that God Almighty had given it to them,and all that was in it. I don't know that that is or was the fact,but that was what was said to be the cause of it. Now as I said before,all that I know about that is hearsay,and I don't pretend to give it as of my own knowledge. It was said that the Mormons threatened to take all the people's property who were not Mormons,and that they said that God Almighty had given it to them. Now that is what I heard.

I40 Q:-These are the threats you referred to? A:-Yes sir, that they were to have all the people's property,-that is what they are said to have threatened,and that was what first caused the commotion here against them. That is what I have heard,but I do not pretend to say it is so for I never heard anything of the kind from the Mormons themselves.

I4I Q:-Now can you locare anything as to the time accurately,as to the time of the shooting of Boggs? A:-Well,I ought to do that,but time has so worked on my recollection of these things that I don't believe I can do it. It is impossible for me to tell the time that took place,although I remember the fact distinctly that Boggs was shot.

I42 Q:-Well locate the time that that occured as well as you can? A:-Well I can't locate the year,as I stated,

say anything of this kind myself,but the citizens said they said so. Now that is all I know about it. Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is immaterial,and calls for a hearsay statement of the witness and to the answer to the question for the same reasons,and moves the court to strike the answer from the record for the reasons above given.

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I42 Q:-Well locate the time that that occured as well as you can? A:-Well I can't locate the year,as I stated,

from memory,but there are events that might help to fix the time. Boggs came out of the Governorship in '40 I think,and the time he shot,-the time he was shot I ought to say,was I think probably a year or two after that. You must excuse these slips of mine gentlemen,for I am afflicted as you can see with an impediment in my speech,and that makes it hard for me to express myself.
(Witness is evidently afflicted with paralysis.)
I43 Q:-Well you think it was about that time he was shot? A:-Yes sir, Well I will tell you.I was living some fifteen miles or so from here at that time,and I think that was about the time I was living there.
I44 Q:-I understand you to say that you took no part in ~~th~~ the proceedings that resulted finally in the MorMons being driven away from this county? A:-No sir.
I45 Q:-You were sheriff of this county at that time? A:-~~Ye~~ Yes sir. As sheriff I didn't take any part in it,-and I will say that I didn't have any inclination to take any part in it.
I46 Q:-And I believe you stated you were elected to the Legislature in 1850? A:-Yes sir.
I47 Q:-And you also stated that a man by the name of King succeeded you as sheriff? A:-Yes sir.
I48 Q:-What was his full name? A:-John King was his name if I am not greatly mistaken.
I49 Q:-He served four years A:-Yes sir,two terms.
I50 Q:-Who succeeded King as Sheriff? A:-Joseph Reynolds.
I5I Q:-Do you know who succeeded Reynolds? A:-I think Thomas Pitcher. I think it was him,but maybe I am a little off on that point,but I think it was Thomas Pitcher. That is my recollection of it now.
I52 Q:-And who succeeded Pitcher? (Witness hesitates.) Was it Thompson? Yes sir.
I53 Q:-Thompson succeeded Pitcher? A:-Yes sir.
I54 Q:-Who was Sheriff when you went to the Legislature? A:-Thompson had been Sherriff,but he served one term only,and who followed him I can't remember. ~~either~~.
I55 Q:-Was it Buchanan? A:-Yes sir. Not Buchanan. It was not Buchanan,for Buchanan was Pitcher's deputy.
I56 Q:-Well after that "Buck" was elected wasn't he? A:-Yes sir,afterwards "Buck" was elected. I would remark,by leave,that my recollection of these things has got so bad of late years that I am hardly competent to give this evidence on account of my infirmity

Re-direct examination by Mr Kelley.-

I57 Q:-Well I have a few questions to ask you further,and I will do it as quickly as possible,for I do not want to detain you any longer than is absolutely necessary Now Mr.Gregg, on your cross examination you said that these stories or reports were circulated with reference to the Mormons? A:-Yes sir.
I58 Q:-These stories or reports with reference to their claiming everything? A:-Yes sir.
I59 Q:-Do you know whether it was true that the Mormons were actually claiming the right to possess this ~~xxxxxxx~~ country,or whether these were stories that were simply gotten up and spread abroad by these men? A:-I can't say. I don't think though they were.
I60 Q:-You don't think they were what? A:-I don't think they were reported by the Mormons.
I6I Q:-Please explain what you mean? A:-I don't think the Mormons made any such a claim. There may have been a~~x~~

few members of the denomination that said something like that,but I do not believe as a class they made that claim.

I62 Q:-Then you don't think the Mormons claimed it at all A:-No sir.

I63 Q:-I Will ask you if you ever knew at any time of Mormons attempting,or endeavoring to take personal property or real estate at any time while they lived here,without paying for it? A:-I have no knowledge of anything of that kind.

I64 Q:-Now you stated on cross examination that you thought a Mormon might gave been permitted to live here undisturbed as late or as early as I850? A:-Yes sir.

I65 Q:-Wait a moment until I complete my question,-Now I will ask you if one had come back,abd had undertaken to have claimed and regained possession of any of these lands that they had formerly owned in the thirties,-if they had come back in I850 and undertaken to have regained possession of any of these lands,would not that have raised the same spirit against them again? A:-Well that question is almost too deep for me to answer.

I66 Q:-Well what is your best judgment as to that? A:-I don't know how it would have been.

I67 Q:-Well don't you think he would have been disturbed? A:-Oh he might have been disturbed,-yes sir.

I68 Q:-You think it is possible that he might have been disturbed under the circumstances? A:-Yes sir,he might.

I69 Q:-Don't you think sir,that it is probable that he would have been? A:-It is possible.

I70 Q:-Suppose he had come back and gone to preaching and holding public meetings,and such as that,what would have been the result? A:-Well I have no doubt,-I believe that would have raised the spirit of some of the citizens. I suppose it would.

I7I Q:-Would it not also have done so in I860? A:-What is that?

I72 Q:-I asked you if some of the people called Mormons had come back here in I860 and commenced to hold public meetings,and preached the doctrines of his church would not that also have raised the same spirit that you speak of in the minds of a section of the citizens of this community? A:-Oh yes,I reckon it would, but not so much as it would before that time,for all the time the feeling was dying out you know.

I73 Q:-Don't you know it did to a great extent as late as I867 and '70? A:-Yes sir.

I74 Q:-When our people first came back here? A:-Yes sir, but you know in I860 the same citizens were here that were here in I830 to a great extent. Of course they were not all here,but there was a portion here,for some of them had gone away,some had died,and others had gone away,but to a great extent the same citizens that were here in I830 were here in I860,-there was a good many of them here.

I75 Q:-There was some of the same citizens here? A:-Yes sir,but of course a large portion of the inhabitants of Jackson County in the sixties came here after these occurences with the Mormons.

I76 Q:-After what time did you say? A:-After the Mormons had been here and were driven away again.

I77 Q:-Well after the time the Mormons had been driven out,right on down to the time they came back again, these same stories had been circulated herh against the Mormons all the time,hadn't they? Had been circulated by the people that were all the time?

A:-Yes sir.
I78 Q:-To a greater or lesser extent,-is that not the fact? A:-Yes sir,to a greater or lesser extent. Of course I can't tell to what extent it was,but I know that I occasionally heard of it from some person who was greatly prejudiced against them,but you must remember that there was not over twentyfive per cent,and h hardly that,of the citizens that were here at the time of the troubles with the Mormons that were here in 1850. The county kept filling up all the time with new comers,and in 1850 there was hardly twenty five per cent of the people that were here then that were here in the thirties.
I79 Q:-I will ask you who the county judges were in 1838 if you know? A:-Well I don't know that I can answer that exactly,for we had three judges at the same time,-the same as we have now.
I80 Q:-Did you ever know of any of them issuing any writs against any of these parties that drove the Mormons out? A:-I do not.
I81 Q:-Were any papers of that kind ever placed in your hands? A:-No sir.
I62 Q:-They were not? A:-No sir.
I83 Q:-Were any efforts ever made to your knowledge,to reinstate them in their homes again? by these parties that drove them out? A:-What is that?
I64 Q:-I asked you if to your knowledge,you know of any efforts that were ever made to re-instate these parties that were driven out of this county,in their homes again,-any efforts to that end ~~that~~ that were ever made by the partise that drove them out? A:-I have no knowledge of anything of that kind at all.
I85 Q:-I will ask you Mr.Gregg if you do not know that some of the citizens afterwards went over the river and helped drive them out of Clay County,-the adjoining county? A:-Well I don't know that I do?
I86 Q:-You do not know with reference to that? A:-No sir.
I87 Q:-Were you here in 1838? A:-Yes sir.
I88 Q:-Was there a company raised here to your knowledge in order to go north and drive them away in 1838? A:-You know Gov. Boggs issued his order to the militia,and there was a company raised then,that went over to Far West,-I believe that was the name they called the place.
I89 Q:-There was a company raised here to go to Far West to aid in the expulsion of the Mormons from that place? A:-Yes sir,that is my understanding.
I90 Q:-And from Caldwell County? A:-Yes sir.
I91 Q:-And is it not a fact that this company that was raised here,was raised before the order of Governor Boggs was issued? A:-I don't think it was.
I92 Q:-And did it not start before the oder of Governor Boggs was issued? A:-I don't think it did.
I93 Q:-You could not state positively whether it did or not? A:-No sir.
I94 Q:-You do not say then,that it did not start before the issuance of the Governor's order? A:-No sir.
I95 Q:-Was this man Governor Boggs,the same Boggs who was here in '38 when the Mormons were driven across the river? A:-Well he was not here for he was the Governor
I96 Q:-Well was it not the same man that had formerly lived here in '38 and was afterwards elected Governor A:-Yes sir.

I97 Q:-Now what citizens of this county that were living in this county at the time that the Mormons were driven out, protested against the driving out, to your knowledge? A:-Well I could not say at this time.

I98 Q:-Were there any? A:-I can't say at this time who they were, for it has been a very great long time ago but there was some citizens here at that time that objected, so I was told, and I probably knew some that objected then.

I99 Q:-But you can't name any that did protest against it at that time? A:-I can't name any at this time.

Re-cross examination by Mr. Southern,-

200 Q:-I Will ask you if you knew anything about what the population of this county was in I838? A:-No sir. I took the census in I835.

20I Q:-Well do you know what it was then? A:I did know at the time, but I have forgotten now what it was and I could not say.

202 Q:-Do you know whether the county had,-do you know what the ratio of the population of the people that were in '33 was to the people that were here in I850,- A:-Of the same citizens that lived here in '33?

203 Q:-Yes sir. A:-Well I don't suppose there was more than fifty per cent.

204 Q:-Well what would you put it at for I860? A:-Well probably twenty five per cent.

205 Q:-What would you put it at in '65? A:-Well it was still going down. It kept going down steadily all the time, and for your understanding I would state that at this present time there is hardly any of them left but myself,-I am almost alone of those who were here in '33,-or at the time of the troubles with the Mormons here. There are some people living here now that were boys at that time, but of the ones that were men at that time I am about all that is left.

206 Q:-There is none but yourself left? A:-Yes sir, that is all that is left of the ones that were in '25,-I am left all alone.

Re-direct examination by Mr. Kelley,-

207 Q:-There is one question, and I will not detain you more than a minute,-there was one question that was brought on cross examination before, that I forgot to ask you about. In stating on your cross examination with reference to the causes that led to the people h here rising against the Mormons, you mentioned or stated that it was on account of the circulation of these stories. I will ask you if it was not circulated and given as one of the reasons why they should be driven out, that these men were from a free state, and the citizens here claimed that they would interfere with their negroes? A:-I don't remember now, of t that being said against them. I do not recollect t that.

208 You do not recollect that? A:-No sir, I don't recollect any thing about that,-though it might be so, but I no not recollect it or remember hearing of it.

209 Q:-That is all.

Witness fees for one day's attendance as a witness and milage for fifteen miles,-$8.00 in all paid by plaintiff.

It being impossible to complete the taking of these depositions on this day, the further taking of the same was by the Notary Public, with the consent of the

what was the percentage in '33 as compared with the population in 1850?

all the parties hereto as aforesaid,continued until Monday,May 9th. I892. at the hour of I0.30 A.M. then at that time to be continued at the place aforesaid.

Now on this 9th. day of May I892,the same being Monday. and being the day to which the farther taking of depositions herein on behalf of the plaintiff was continued as aforesaid,at the hour of I0.30 o'clock A.M. come the parties hereto as aforesaid,and the taking of depositions herein was resumed,pursuant to adjournment,-

William Stewart of lawful age,being produced,sworn and examined on the part of the plaintiff,testified as follows Direct examination by E. L. Kelley,-

I Q:-What is your full name,Mr,Stewart? A:-William Stewart
2 Q:-You may state your age and where you reside,Mr. Stewart? A:-Well sir,I was born in I8I9,and I will be seventy three years old the 25th day of June next,- if I live to see the day. Now do you want to know where I was raised?
3 Q:-No sir,-where you reside at the present time will do A:-Where I reside now?
4 Q:-Yes sir? A:-Out here at Norwood station.
5 Q:-That is between this and Kansas City? A:-How?
6 Q:-That is between this place,-Independence,-and Kansas City? A:-About a mile from this place on the Dummy.
7 Q:-How long have you lived there? A:-Well,I haven't lived there but about ten years.
8 Q:-Where did you live previous to that? A:-In Westport,- well not in Westport exactly,but there close to Westport,in Westport township.
9 Q:-In what county was ~~xx xxxx~~ that? A:-In this county, in Jackson County.
I0 Q:-How long did you live there? A:-Twenty four years.
II Q:-What time did you first come to Jackson County? A:-In I886 it was when I first came here.
I2 Q:-Where did you live when you first came here? A:-I lived out here about two miles from town here when I first came here from '36 to '43. I lived during that time out here close to town,-but that was when I was young,-a young man,-before I was married.
I3 Q:-Where have you lived since that time? A:-Well,out there where I told you,-
I4 Q:-Well where was that? A:-Out there where I told you, and close to Westport. I lived out there where I told you close to Westport and where I live now out there at Norwood station on the Dummy.
I5 Q:-So you have lived continuously in Jackson County, Missouri,since I886? A:-Yes sir,with the exception of one year.
I6 Q:-What year was that? A:-That was in '36 when I went to Kentuckey and I was gone from this county for about a year. I went in the fall of '38 to Kentucky and in '39 I came back and I have lived here ever since. I have lived in this county about fifty five years,all told.
I7 Q:-What official position or positions have you held in this county since you have resided here? A:-Well I was a Deputy Sheriff for a couple or three years under old Billy Butts,-he was elected Sheriff and I was Deputy Sheriff under him.
I8 Q:-What years were you Deputy Sheriff? A:-In '56 '7 and '8 I believe. But I don't know about that. I can't say just what the years were,for I resigned before his time was out,but it was about these years

that I was deputy sheriff under him.
19 Q:-Well you were a deputy sheriff under him? A:-Yes sir.
20 Q:-For three years? A:-Yes sir, I can't remember the years though exactly,but I think they were the years I have given you. He was elected for two terms,for they elected their sheriffs every two years then,and he was elected for two terms,and he made his deputy in his first term,and I served over into the second term,but resigned before that term was out. He served four years,and I don't think I was under him all the time he was sheriff,for I resigned the latter part of the term before it was out,but I was his deputy all right enough his first term.
21 Q:-Well during the time you have lived in this county,h have you mixed with the people of the county and got acquainted with them? A:-Yes sir.
22 Q:-To what extent did you get acquainted with the people of this county? A:-Well sir,it was just this way when I first came here there was but very few men in this county that I was not well acquainted with,-I think I knew almost every man in it,but of late years there has been so many new comers come in here that I know hardly any one but the old timers,and there ain't many of them left now. There wasn't but a very few men here in '36 compared with what there is here now,but what there was I soon got acquainted with.
23 Q:-Well how was it with reference to being conversant with the sentiments of the people in the county during those years,-that is,from the time you came here down to say 1870? A:-In what respect?
24 Q:-Well particularly with reference to their views regarding the people called "Mormons" that were driven out? A:-Well those first settlers here,such as the Nolands,-say the whole Noland family,-and there was a good many of that family,-and there was old Collier and his family,-and they all talked very hard against them,-they did not seem to have much use for them,and said lots of hard things against them.
26 Q:-Well what other parties was there here besides the Nolands? A:-Well all the first settlers here,-the old settlers here,were bitter against them. I mean those that lived here with them at the time the Mormons were here,for I was not here with them when they were here. I came here after they were driven out,and so of course I don't know anything about how it was when they were here,but after I came here I know the old settlers said many rough and bitter things against them. They told me a heap of yarns and tales about them,-about old Joe walking the water and sich as that,and the fact is that they couldn't speak any good words for them at all. They made out they were a bad people,-thieves and everything that was bad. Now that was the way they talked of them at the time I first came here and for years afterwards every time they had an opportunity,or a chance to talk of them at all,-they couldn't say anything good of them.
26 Q:-I will ask you whether from your knowledge of the sentiment of the people as you have seen and heard it expressed during the years you have lived here,what would be your opinion with reference to the safety of those people,-the Mormons,or Latter Day Saints,-if they had come back here to settle? A:-In what years?
27 Q:-Well any time,-any time from the year 1836,the time

you came here first? A:-Well in 1857 the year after I came here,-in the spring of '57 this Platte Purchase was first opened for settlement and a great many of these people I have spoken of,-those people who spoke ill of the Mormons,-they sold out and went over to Platte County. I went myself and took up a claim,and a great many of these first settlers here I spoke of,sold out here and went there,and some went to Texas,and about from '56 to '40 I don't think it would have been very safe for a Mormon to have been caught in this country,-at least if I had been a Mormon I know I would not have felt safe,-I would not have considered myself safe here at all; but after that the people that came in here from Kentucky,Virginia and elsewhere,there was nothing wrong with them. I don't think these later settlers that came in here would have done the Mormons any harm,-for it was the first settlers here that had to do with them. I know I had a cousin that was wounded in that fight at Westport,-Miles Cockrell,-a cousin to Frank Cockrell,our senator,and in '56 I was where they had the fight,and there was a big tree full of bullets there showing that they had a pretty lively engagement.

28 Q:-Well that is immaterial. Now did this feeling continue up to the time of the war? A:-No sir.

29 Q:-It did not continue up to the time of the war? A:-N sir,and in '40 I don't think there would have been much danger,because there was not any of the first settlers here at that time,-they had gone to Platte County and to Texas and elsewhere,and a good many had died,so that at that time I don't think there would have been much danger. About all the danger there ~~wa~~ was to the Mormons here so far as I could see was ~~so~~ from these old timers,-old settlers that were at the time the Mormons were driven out,-and when they left and went elsewhere or died there wasn't any danger from the settlers that were coming in all the time.

30 Q:-Who were the first settlers here,-whom do you reckon amongst the first settlers? A:-Well there was the Nolands,-they were the first settlers here,and there was Tom Pitcher and the Bradys and the Glasscocks,-I don't think of all of them now,but ~~there~~ these were some of the oldest settlers here,and they were the ones that were so bitter against the Mormons,but they all left here about,and after they got away I do not think there was much danger to be apprehended.

30 Q:-What time did the Nolands leave here? A:-In '37 was the time they left here.

31 Q:-Well was there not a good many of them continued here? A:-Well,not a great many of them,-only old Uncle Will Noland,and some of the rest of them stayed here.

32 Q:-Did you hear of the parties that came here to preac along about 1856 or '57 or '8,-a fellow calling himself,-a man calling himself "Potter Christ?" A:-No sir.

33 Q:-You do not recollect about that? A:-No sir,I don't recollect about any Christ being here at all. I don't recollect about that at all,and I never saw a Mormon until '38,and that was at,-well it was in '38 when I was going to Kentucky,and I met them at Phillips Ferry on the Illinois river,and he and Will Anderson's father were together,and they were camped there.

34 Q:-What time was that? A:-That was in '38 and it was on a Sunday,and it was the first time I ever saw a Mormon. We stopped to feed our horses and take a lunch,and they found out from some cause we were from

Jackson County,Missouri,and so an old man came to me and wanted to know if I was from Jackson County, and I told him I was,and then he went on and asked me what the feeling was against the Mormons in Jackson County,-and I told him,-I told him they did not stand well there. I told him they did not stand well there at all. Now you asked me about these people,or this man that was called "Christ" something. I don't remember anything about him,but there is one thing I want to say,and that is that in the spring of '38 I understood there was a couple of Mormons said to be,-that is,they were said to be Mormons,for understand I don't know a thing about this of my own knowledge,-that is all hearsay and I don't know anything about it.

35 Q:-Well you need not state anything that is hearsay? A:-Well I don't know how to state it,-I am satisfied that it is right,-

36 Q:-Well state only what you know of your own knowledge for that is the only competent evidence,-what some one else told you is not competent at all,-anything you know personally of your own knowledge is proper so far as that is concerned,and that you may state and nothing else. A:-Well this was going to prove what I said about their not being safe here at that time,-that was the point I was at.

37 Q:-Was this a transaction in which two of them lost their lives? A:-What is that?

38 Q:-Was this a transaction in which any of them lost their lives? A:-Well it was said that way,-I don't know how true it was.

39 Q:-When was that? A:-In '38.

40 Q:-That was in '38? A:-Yes sir. Must I tell that?

By Mr.Southern"No you need not tell that,for you say you don't know anything about it only what you heard, and we object to your stating what you heard."

41 Q:-You did not see it? A:-No sir.

By Mr. Kelley 42 Q:-You know it from the common reports that were afloat in the neighborhood? A:-That was the report in the neighborhood,and at that time I lived here close to town,and that was the report that was around that there was a couple of the Mormons had crossed the river and come over here,-they had crossed the river at a place called "Owen's Landing" and there was some fellows that were there and saw them cross the river. Well they never returned and it was the supposition that they killed them. Now I don't know that to be true,but that is the way I heard it.

43 Q:-When you were speaking to these Mormons,or Latter Day Saints,over there in Illinois on that occasion you told them of this occurrence did you not? A:-Yes sir. I told the old man what I had heard about it to give them an idea of how things stood here,you know.

44 Q:-Was he making inquiries to know whether it would be safe ~~XXXX~~ for them to come back here again? A:-Yes sir.

45 Q:-Well what did you tell him? A:-I told him that I didn't think it would be safe for them to come here at that time. They were on their way to Far West at the time,so he told me,and after I left the Governor ordered out the militia,and he got into trouble sure enough.

46 Q:-What year did you say that was in? A:-That was in '38.

47 Q:-Well now I will ask you,Mr.Stewart,whether or not this feeling has not existed right along so far as that is concerned,and parties here would look down

upon any body that would undertake to teach the faith of the Latter Day Saints here?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetena,irrelevant and immaterial.
48 Q:-What is your answer to that question? A:-He objects to it. Shall I answer it?
49 Q:-Yes sir,answer the question,and pay no attention to his objections beyond delaying your answer until he is through making his objection? A:-Well what do you want to know,-what period of time do you have reference to?
50 Q:-I mean the time that these old settlers were here? A:-The first settlers?
5I Q:-Yes sir? A:-Yes sir.
52 Q:-What do you mean by that answer? A:-I mean that they did not take any stock in that,no way at all. That is,the first settlers didn't. The first settlers when I came here first were down on them,and didn't take any stock in them at all or their doctrines,and had no use for them or any one that preached or believed in them. They could not say anything good about them and they said a heap of bad mean things about them, but whether what they said was true or false I could not say,for I was not here at the time they had the trouble with them,or the time that they went away,for they went away in '33 and I came here in '36,-but they said they were a damned set of thieves and rogue and all that,and of course I don't know anything about it,but the new comers that came in afterwards,-the Kentuckians and Virginians and Tennesseeans,they had nothing to do with that,and I don't think the Mormons had any fear of them,or had any cause to fear them particularly.
53 Q:-Well is it not a fact that these new comers that would come in here would be prejudiced more or less by these stories that they would hear from these sources? And these reports that would be poured into their ears be the first settlers as you call them that were here at the time the Mormons were here? A:-Well I can't say. I don't think they would be to any very great extent,for I know I was not prejudiced at all. I know that and there was some as good men as me came here fron Virginia and Kentucky,and I know that I would not have hurt them at all,for I always felt that a man has a right to his opinions political or religious. Now that is what I formed my opinion of them from,-from what I heard said,and it did not have any particular effect on me as I know.

Cross examination by Mr.Southern,-

54 Q:-Have you any idea about how many of these people were here in '38 or '40 when you came here? A:-I [illegible] A:-What is that? That is a question I don't understand?
55 Q:-Have you any idea about how many of these old people were here in '38 or '40 when you came here? A :-I came here in '36 I said.
56 Q:-Well have you any idea of how many of them were here at the time I have stated In my previous question? A:-The first settlers do you mean?
57 Q:-Yes sir? A:-No sir,I couldn't say how many of them were here.
58 Q:-What was the population of the county at that time? A:-I can't tell you now ,but it was bot a great many
59 Q:-Was there many people living in Independence then? A:-No sir,not a great many at that time.

60 Q:-Was there a great many people living in Kansas City at that time? A:-No sir.

61 Q:-How many people was there in Kansas City at that time? A:-There was no Kansas City there at all. It was before Kansas City was thought of.

62 Q:-Well there was no one living where Kansas City is now? A:-No sir,there was no city there at all. Of course there might have been a few people living where Kansas City is now,but there was no city there

63 Q:-Was there any people living in Westport? A:-Only a few people lived there either.

64 Q:-Well about how many people ~~were~~ were living at Westport? A:-Not many.

65 Q:-Was there two hundred or three hundred,-or about how many? A:,No sir,there wasn't two hundred or three hundred,-not the half of it.

66 Q:-Well was there that many living in Independence? A:-I can't say. I think there was,and more than that but that is all guess work you know,judge. I couldn't say how many there was here that time,and anything I might say would be guess work.

67 Q:-Well about 1840 a great many of the people that had been here in the Mormon times had left,you stated,I believe? A:-Yes sir,a good many of them had left,for in '37 that country,-the Platte purchase was open for settlement,and a great many of the old timers sold out here and went over there.

68 Q:-Well is it not a fact that in this country at that time was what was known as the "Border Ruffians"? A:-No sir,that was before their day. All the foderal there was about that was the time of the war,or just before the war and after it,and during the time of the war,and we had lots of "border ruffians" here at that time. The time of the war and when it was talked about is the time that they raised all the trouble in this country. I never heard anything about "border ruffians" until 1856.

69 Q:-Then they had nothing to do with the Mormons? A:-No sir. The reason they got that name was because to run over in Kansas,the ones that were in this state, and were in favor of slavery,they would run over in Kansas and stick a stake down and claim they were citizens of Kansas and then they would vote. I never heard of the "border ruffians" or "red legs" until 1856,for that was about the time they first came on the field.

70 Q:-Well what was the condition of this section of the country in 1860,-that was some ten or twelve years later still? A:-Well as it came down towards the time of the war and the troubles that led up to the war began to agitate this country it kept getting more unsettled all the time.

71 Q:-But you say there was nothing heard of these border ruffians as they were called until 1856,and I am asking you about 1850 which was six years earlier? was there many of the old people that had been in the previous troubles with the Mormons here then? A:-Well there was a few scattered around,but not as many as in '37 and '38. They had a good many of them gone out of the country at that time,-there was not as many of them here then as there was in '37 and '38 you know,for they had a good many of them sold out here and gone over to the Platte purchase and entered lands there.

72 Q:-Well in '50 say,how many of them were here?

A:-Well now when I was deputy sheriff in this county as I told you,my business was up in Kaw township across the Blue. You know at that time Kaw township went right up to Washington,and it is now made into two townships,-Kaw township and Westport township, and my business was up there across the creek you know,and I did not have so much to do down this way, only at the time when court would be in session,and so so I can't say so much about what was going on in this part of the country,only from what I heard,and of course I heard about everything that happened,but then you know I don't know it of my own knowledge, for it is hearsay like.

73 Q:-Were you the only deputy sheriff there was in the county? A:-No air. Burris was deputy down here at that time you know,and I was the deputy up at Westport,and that country was not so very well settled up there at that time.

74 Q:-You mean Sni-a-bar township was not so very well settled? A:-Yes sir. I mean that part of the county down here.

75 Q:-You mean the eastern part of the county was not so very well settled? A:-Yes sir. There was very few people lived out there then.

76 Q:-Where were the settlements? A:-Down here and about Westport were the best settled parts of the county and out east of here and down south it was very thinly settled,and in some places for miles there was no settlement. It was settled pretty well comparatively up here around Raytown and St. Fee and around there and here in Independence and at Westport. When I came here in '36 at Raytown that land was all taken.

77 Q:-How far is that from here? A:-Raytown?

78 Q:-Yes sir?

A:-Well it is two or three miles I suppose or something like that.

79 Q:-Well the country was pretty considerably settled about '50 was it not? A:-Yes sir.by that time the county here was pretty tolerably settled.

80 Q:-The St. Fee trade was in full blast then,wasn't it? A:-Yes sir.

81 Q:-And there was a great many people coming and going through here between here and the west,from the eastern and southern states? A:-Yes sir,but they did not live here,-they passed through here going to California and so on.

82 Q:-Did not a great many people come here between '50 and '60,-just prior to the war of the rebellion? A:-Well now I was pretty well acquainted with every man here in '36 and '7 and '8 I might say,and for several years afterwards,for they came in here one or two at a time,and when a stranger would come here why of course I would get acquainted with him right away.

83 Q:-Well that is not an answer to my question,-I asked you if at that time there was now a good mane people came into this section of country about that time,-a good many people came here to reside permanently did there not? A:-Yes sir. There was some people came in here between '40 and '50.

84 Q:-Well about what proportion would the new comers bear to the old settlers,-that is,the new comers that came in here between '40 and '50,-about what proportion would they bear to the old settlers? A:-Well as I said,that is hard to say,fot a good many of the old ones went out,and these new ones came in,but I could not tell you how many there was. Washington township had condemned land in it,and about all that land was vacant,for the government did not think it was worth surveying,and it laid there for ~~ye~~ years before it was opened for entry.

85 Q:-And now that is a very thickly settled part of the county? A:-Yes sir. It is now,but for years there was nobody lived there,unless it was a few squatters for it was not opened for entry and settlement for a good many years after I came here.

86 Q:,-It has been settled pretty well ever since the war has it not? A:-Yes sir. I should judge so,-there was some settlers on it before the war,but the most of them went in there before the war I think.

87 Q:-There was some pretty good settlements out there just before the war,was there not? A:-Yes sir.

88 Q:-And just before the war there was some pretty good settlements just east of Independence,-out east here was there not? A:-Well I judge where was. That is something though that I can't say much about,for I never traveled down there much,for my business was on the west side of the Blue,up about St. Fee and Hickman's mills and around there.

89 Q:-Well just prior to the war in '50 and '60,-or between these years,-didn't a good many people gather in where Kansas City now is? A:-Yes sir.

90 Q:-There was a pretty considerable town there in 1860 was there not? A:-Yes sir.

91 Q:-Kansas City was larger than Independence in 1860, was it not? A:-Yes sir,I guess that it was.

92 Q:-And these people that were there in Kansas City were all new people that came here after you came to the state? A:-Yes sir,certainly the most of them were. The Holmes lived there at the time,and it was called the "Goose Neck" country,but there was no Kansas City there at the time I first passed through there, there was not a house in the town,and nothing that looked like a city,and nobody I guess thought at that time that there ever would be a city there like there is,for at that time there was no landing there That was made after I came here first.

Re-direct examination by Mr.Kelley,-

93 Q:-Did you know of any of the Latter Day Saints coming back here and settling here between 1850 and '60? A:-No sir.

94 Q:-You did not know of any of them coming here? A:-No sir,I didn't know of any of them coming here until they began to come in here a few years ago.

95 Q:-Well it is a fact that of late years they have come here again? A:-Yes sir. They began to come in here I think after the war,and there is lots of them here now.

96 Q:-I will ask you if it is not a fact that most of the settlements that have been made in this county west of here,have not been made since 1870,-has not Kansas City and all that country been settled since that time? A:-since '70?

97 Q:-Yes sir,since 1865 and '70,-since the war? A:-Well most of the people of course have come in since that time,-nearly all of them,-that is,the people that are there now,but about 1856 it began to build up pretty strong where Kansas City is now.

98 Q:-What began to build up pretty strong? A:-Kansas City did. That was where they changed the trade,for they had all the goods landed in Kansas City at that time,and that is what gave Kansas City its start at first.

99 Q:-But the settlements did not reach out here as they do today? A:-No sir,there were very few settlers between this and Kansas City until you got on this

side of the Blue.

I00 Q:-And during all this time you have lived here, you never heard of any Latter Day Saints coming in here until since the war, or lately? A:-No sir, not until since the war, or about that time.

I0I Q:-Since the war? A:-Yes sir.

I02 Q:-And how late since the war? A:-"How late". What do you mean by that?

I03 Q:-Can you mention about the year when you first know of any of them coming back? A:-No sir, I could not keep account of the year I first knew of any of them coming in here, and this old man Mayo was the first Mormon I knew anything about for I got acquainted with him when he came here, or right after the time he came here. I know when he came,-that is I remember the fact of his coming, but I can't say what year it was, or how many more of them came with him, but there was others came about that time too.

I04 Q:-Well now was not that about the year I870? A:-Well now I could not say.

I05 Q:-Well if you don't remember the year it is immaterial? A:-No sir I don't know when it was. This man could tell you better than I could. Mayo was the first man I got acquainted with that was a Mormon, b but I have got acquainted with several of them since.

Plaintiffs rest their case upon direct testimony.

By Mr. Southern,-"Defendant here enters a demurrer to the plaintiff's case, as made out by the pleadings and the testimony, and asks for a judgment thereon against the plaintiff with costs; and for grounds of demurrer defendants state and say, first,-

That under the pleadings and the testimony as given by the plaintiff in this case, plaintiff is not entitled to recover as against these defendants,-

Secondly,-Under the pleadings in this case, plaintiff is not entitled to recover as against the defendants,-

Thirdly,-That under the testimony offered by the plaintiff in this case, plaintiff is not entitled to recover, as against the defendants.

Wherefore defendants ask judgment in their favor with costs of suit.

By Mr. E. L. Kelley,-"All of which is objected to by the plaintiff as incompetent, irrelevant and immaterial."

By Mr. Southern,-"Notice is hereby given by the defendants to the plaintiff herein, that they will proceed to take the testimony of sundry witnesses in accordance with the stipulations entered into herein, which are modified or may be modified by the mutual agreements of the parties here in manner as has been deemed necessary or may be so deemed,-at the city of Denver in the State of Colorado at the St James Hotel, or such other place as the parties when they arrive at the said hotel, may agree upon, on Wednesday the eighth day of June I892 at the hour of ten o'clock A.M. and notice is hereby accepted by the attorney here present representing the plaintiff Mr. E. L. Kelley.

It is further agreed that the depositions of witnesses on the part of the defendants, may be taken in Nebraska City in the state of Nebraska, and the town of Pleasonton in the said state of Nebraska, at such time as the parties hereto may hereafter agree upon, or at such other place or places as may be hereafter agreed upon.

State of Missouri)
)ss.
County of Jackson)

I, John M. Orr a Notary Public within and for the county aforesaid do hereby certify that the above and foregoing 696 pages of type-written

Chas R Russ.

Mary Eaton.

Jno. J Craig

M M Hall

Jacob Cragg

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